### STONECREST G E O R G I A

### PLANNING COMMISSION MEETING

### Stonecrest City Hall's **Zoom Video\* -** 6:00 PM September 7, 2021

### AGENDA

As set forth in the Americans with Disabilities Act of 1990, the City of Stonecrest will assist citizens with special needs given notice (7 working days) to participate in any open meetings of the City of Stonecrest. Please contact the City Clerk's Office via telephone (770-224-0200).

\*Meeting will be held virtually via the <a href="www.zoom.com">www.zoom.com</a>. Meeting can be viewed on the City of Stonecrest YouTube page. Citizens wishing to make public comment may submit their questions in writing to read at the meeting, or those who wish to make live comments during the public hearing may submit a request for a zoom link via email address <a href="lillian.lowe@stonecrestga.gov">lillian.lowe@stonecrestga.gov</a>. Requests must be submitted by noon the day of the meeting, September 7, 2021.

- I. Call to Order
- II. Roll Call
- III. Approval of the Agenda
- **IV. Presentations -** Presentation by Jim Summerbell, AICP, Planning and Zoning Director on department activities and upcoming cases.
- V. Public Comments Lillian Lowe will read public comments submitted before the meeting.
- **VI. Approval of Minutes:** The Planning Commission Meeting Minutes Summary dated August 3, 2021.

### VII. Old Business

1. Withdrawals – The following 2 cases are requested to be withdrawn by the Applicant:

LAND USE PETITION: CP-21-001 PETITIONER: Duke Realty

LOCATION: SE Corner of Lithonia Industrial Blvd and I-20 (official

address of 2975 Evans Mill Rd and 6378 East Glen Rd)

**PROPOSED AMENDMENT:** Proposed amendment to the 2038 Stonecrest

Comprehensive Plan, amending the Future Land Use Map

from City Center to Light Industrial.

LAND USE PETITION: RZ-21-004 PETITIONER: Duke Realty

LOCATION: SE Corner of Lithonia Industrial Blvd and I-20 (Official

address of 2975 Evans Mill Rd and 6378 East Glen Rd)

**PROPOSED AMENDMENT:** Proposed rezoning from R-100 (Residential Medium Lot-

100) Stonecrest Overlay Tier 4 to OD (Office/ Distribution) for the development of 329,280 sf Distribution Center. The

rezoning would remove the subject property from the

Stonecrest Overlay District.

### 2. Public Hearing:

LAND USE PETITION: RZ-21-003

PETITIONER: APEX Land Company, LLC

LOCATION: 3177 Panola Road and 5207 Thompson Mill Road

PROPOSED AMENDMENT: Proposed rezoning from NS (Neighborhood Shopping) and

R-100 (Residential Medium Lot-100) to RSM (Small Lot

Residential Mix) for the development of a 76-unit

townhome community.

### VIII. New Business

### 1. Public Hearings:

LAND USE PETITION: RZ-21-005

PETITIONER: WSM Associates, LLC c/o Battle Law, P.C.

LOCATION: 6301 Browns Mill Rd

PROPOSED AMENDMENT: Proposed rezoning from R-100 (Residential Medium Lot-

100) to RSM (Small Lot Residential Mix) for the development of a 31 single family detached house community. The subject property is within and is proposed to remain within the Arabia Mountain Overlay District.

LAND USE PETITION: RZ-21-006

PETITIONER: Ray of Hope Christian Church Disciples of Christ, Inc

c/o Battle Law, P.C.

LOCATION: 4700 Browns Mill Rd

**PROPOSED AMENDMENT:** Proposed change in zoning conditions, rezoning from RSM

(Residential Medium Lot-100) with conditions to RSM (Small Lot Residential Mix) with other conditions for the development of a 73-townhome community with park

amenities.

LAND USE PETITION: TMOD-21-007

PETITIONER: Stonecrest Planning & Zoning Dept

LOCATION: Citywide

**PROPOSED AMENDMENT:** Amendment Stonecrest Code of Ordinances, Chapter 7 –

Building and Construction. Adoption of the GMA model ordinance for Private Permitting Prequalification for review

and inspection.

LAND USE PETITION: TMOD-21-008

PETITIONER: Planning & Zoning Department

LOCATION: Citywide

### PROPOSED AMENDMENT: Amendments to Stonecrest Zoning Ordinance, Chapter

27Article 7 – Administration regarding application procedures, training requirements for commission and board members, and public notification of the rezoning and

building activity.

### IX. Adjournment

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### PLANNING COMMISSION MEETING MINUTES SUMMARY

STONECREST CITY HALL'S **ZOOM-Video\* MEETING**, 6:00 PM August 3, 2021

### I. Call to Order

The Chairman called the Planning Commission meeting to order on Tuesday, August 3, 2021, at 6:05 PM via *ZOOM-Video\** meeting. The Chairman read the Rules and Procedures for Planning Commission Meetings and Public Hearings.

### II. Roll Call

Chairman Eric Hubbard called the roll. Commissioners JW Eady, Joyce Walker, Pearl Hollis, and Cheryl Moore-Mathis were present. There was a quorum. Planning & Zoning Director Jim Summerbell, City Planner Tuyanna Daniels, and Attorney Alicia Thompson, Fincher & Denmark, were present.

### III. Swearing in of new Planning Commission member, Cheryl Moore-Mathis.

The Chairman recognized new Commissioner Mathis.

The Chairman turned the meeting over to Mr. Summerbell.

Mr. Summerbell advised the Chairman that the Approval of the Agenda had been skipped.

The Chairman explained that the **Agenda** is a little different now. Mr. Summerbell will do the **Presentations**. The **Public Comments** will be read by the Planning Commission Secretary, Ms. Lillian Lowe. Next, is the approval of the 'Special Called' June 22, 2021, Planning Commission Meeting Minutes Summary, Old Business, and New Business.

### IV. Approval of the Agenda

Chairman Hubbard asked the Commissioners if they agreed with the said Agenda. The Commissioners were unanimously in **AGREEMENT**.

The Chairman turned the meeting over to Mr. Summerbell.

V. Presentations - Presentation by Jim Summerbell, AICP, Planning and Zoning Director on department activities and upcoming cases. Planning & Zoning is trying to improve on the City's transparency and openness as to what is on the table. The upcoming cases include:

> August 10<sup>th</sup> I August 13<sup>th</sup> S

Deadline for Rezoning Application

- Staff & City Council to Discuss Zoning Ordinance Text Amendments *This is the 2<sup>nd</sup> Round* (the 1<sup>st</sup> Round included Personal Care Home, Child Care, SLUPs, and Special Events.):
- Community Council Establishment
- Arabia Mountain Conservation Overlay
- Supplemental Use Provision for Special Event Facilities, etc.
- Private Permitting Pre-qualifications
- Recommended changes to the Adm. Article of the Draft Zoning Ordinance (Article 7)

August 18th Planning Information Meeting (tentatively scheduled)

Zoning Case(s) currently being reviewed for Planning Commission September 7<sup>th</sup> Agenda:

RZ-21-005 WSM Associates, R100 to RSM to the Arabia Mtn Conservation

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- Overlay which the applicant is asking to defer from this agenda.
- City initiated rezoning to expand the Arabia Mtn Conservation Overlay District to the side of Plunkett Road.

Chairman Hubbard called for a motion to approve the 'Special Called' June 22, 2021, Planning Commission Meeting Minutes Summary before the reading of the **Public Comments** by the Secretary.

Commissioner Hollis motioned to **APPROVE** the 'Special Called' Planning Commission Meeting Minutes Summary dated June 22, 2021. Commissioner Walker seconded the motion. The motion was unanimously **APPROVED**.

VI. Public Comments - Planning Commission Secretary Lillian Lowe read public comments submitted before the meeting.

The following emailed Public Comments were read by the Secretary (ATTACHMENT I): *Emailed Public Comments* read by the Secretary:

- 1. Ms. Faye Coffield wish to speak on RZ-21-002, RZ-21-003, CP-21-001, and RZ-21-004.
- 2. Ms. Dinah A. Roberts was in opposition.
- 3. Mr. Franklin Eaves was in opposition.
- 4. Mr. Harold Smith and Ms. Patricia Smith are in opposition.
- 5. Ms. LaShawnda Walker was in opposition.
- 6. Ms. Louise Wise was in opposition.
- 7. Ms. Joys Jazz was in opposition.
- 8. Mr. Carl Manson was in opposition.
- 9. Ms. LaShawnda Walker was in opposition.

Time was called by the City Planner Tuyanna Daniels, but the Secretary did not acknowledge hearing the communication and kept reading. The City Planner and Chairman tried several times to gain the Secretary's attention. All attempts failed and the Secretary's microphone was turned off.

There was no audio while the Secretary continued the reading of comments from:

- 10. Ms. Patricia Willis was in opposition.
- 11. Ms. Betty Sykes was in strong opposition.

Simultaneously, the Chairman took over the microphone and spoke to the Public Hearing audience.

The Secretary's microphone resumed at approximately 6:35 PM in time to hear the Chairman explain the staff works from various locations, and that Ms. Lowe may be experiencing technical difficulties and cannot hear.

The Chairman continued speaking and stated that the City Council has a new agenda format, that has not been tested, beforehand, by the Planning Commissioners. The Chairman apologized for the confusion on behalf of the City. It was not fair to the citizens and applicants to have all things coming at the same time. Some citizens are here to speak-in-person. The Chairman asked Ms. Daniels how much time was spent on this, Public Comments? Per Ms. Daniels, ten minutes.

The Chairman turned the floor over to Ms. Coffield for comments.

Ms. Coffield stated that she has attended lots of meetings and during the first part of the meeting, citizens are allowed to speak on any subject. This does not take away from the ten minutes for

comments. Letters should have been distributed to Commissioners before the meeting. Also, it should have never been advertised as a Public Hearing.

The Chairman said Ms. Coffield was correct. The Planning Commission has never done Public Comments. The Planning Commission meetings did not have time set aside for Public Comments. The Chairman stated that this is something new the City wanted to try out. There was a mixture of letters that were not in a specific order. It is not fair for the citizenship or Commissioners to go through writing down information. Due to COVID, the City is not able to allow public comments. Everyone wanting to speak will be heard. Time will be extended.

The Chairman made the decision to change the Agenda and have Ms. Lowe read comments according to the specific case when going through each of the Agenda items. The Planning Commission does not want the applicants or citizens to feel cheated. Ms. Coffield was thanked for the comments.

VII. Approval of Minutes: The 'Special Called' Planning Commission Meeting Minutes Summary dated June 22, 2021.

Chairman Hubbard called for a motion to approve the June 22, 2021, 'Special Called' Planning Commission Meeting Minutes Summary before the VI. Public Comments were read by the Secretary.

### VIII. Old Business

### 1. Public Hearing:

Land use Petition:

RZ-21-002

Petitioner:

Alphabet Daycare c/o Shanteria Vaughn, and Titus Hood

LOCATION:

3174 Miller Rd

Proposed amendment:

Proposed rezoning from R-100 (Residential Medium Lot) to OI

(Office-Institutional) for a child day care center.

Planning & Zoning Director Jim Summerbell presented **PETITION RZ-21-002**. This is not a new petition, and it was heard at the March 22<sup>nd</sup> and March 24<sup>th</sup> City Council meetings and deferred back to the Planning Commission. Staff recommends **APPROVAL OF PETITION RZ-21-002 WITH CONDITIONS**:

- 1. Access shall be limited to the existing curb cut off at Miller Rd.
- 2. All refuse containers shall be screened from public view except during pick up.
- 3. The applicants shall secure the necessary certification by the State of Georgia, and the license of business required building permits and certificates of occupancy from the city of Stonecrest.
- The property shall only be used as a Childcare Center or a Private kindergarten, Elementary, Middle or High School, as it was in the past.
- 5. Any future modifications or improvements to the existing structure will be consistent with the residential character of the surrounding neighborhood, and for all outward appearances, except signage and driveway configuration will look like a single-family home.

The Planning Commissioners added a condition:

6. The Child Day Care Center located on 3174 Miller Rd must revert back to the original zoning, R-100 in the event of an ownership change and/or if the applicant decides to sale the business. This is unique to this business only. "If a business license is not applied for within a year for a child day care or private school, or if such a business license is not renewed for a childcare

center or private school within a year of expiration that the rezoning would revert back to R-100."

The applicants, Ms. Shanteria Vaughn and Mr. Titus Hood were not present at the meeting.

There were none in support of PETITION RZ-21-002.

There were two not in **opposition** that spoke-in-person:

- 1. Ms. Faye Coffield asked that conditions be more specific and say this cannot change. Say specifically that it must stay as a day care.
- 2. Ms. LaShawnda Walker followed-up with what Ms. Coffield said. Zoning stays with this day care, R-100.

The Chairman closed the public hearing before going into discussion.

Chairman Hubbard motioned to APPROVE with the conditions recommended by the Planning & Zoning Department. Commissioner Hollis seconded the motion to APPROVE PETITION RZ-21-002 WITH CONDITIONS RECOMMENDED BY THE PLANNING & ZONING DEPARTMENT THAT IS UNIQUE TO THIS BUSINESS ONLY. IF APPLICANT DECIDES TO SALE THE BUSINESS, THE DAYCARE CENTER LOCATED AT 3174 MILLER ROAD MUST REVERT BACK TO R-100, THE ORIGINAL ZONING. The motion was unanimously APPROVED.

#### IX. **New Business**

### 1. Public Hearings:

Land use Petition:

RZ-21-003

Petitioner:

APEX Land Company, LLC

LOCATION:

3177 Panola Road and 5207 Thompson Mill Road

Proposed amendment:

Proposed rezoning from NS (Neighborhood Shopping) and R-100 (Residential Medium Lot-100) to RSM (Small Lot Residential Mix) for the development of a 76-unit townhome

community.

Planning & Zoning Director Jim Summerbell presented PETITION RZ-21-003. Staff recommends APPROVAL OF PETITION RZ-21-003 with conditions:

- The future development of the site shall be in compliance with the general concept plan submitted with this rezoning application prepared by Contineo Group and dated 6/7/21.
- 2. A Homeowner's Association (HOA) will be established prior to the approval of a final plat for the development. HOA membership will be a requirement of all property owners within the development.
- 3. The HOA will work with the DeKalb County Police Department to install and maintain a camera security system, such as FLOCK Safety system, to monitor motor vehicle traffic in and out of the subdivision.

Today, Michelle Battle of Battle Law, PC, representing the applicant, submitted an alternative set of proposed conditions which will be presented as part of the applicant's presentation.

Attorney Michelle Battle, Battle Law Firm, 3562 Habersham at Northlake, Tucker, GA addressed the Commissioners. A PowerPoint presentation was shown (ATTACHMENT II). Attorney

Battle stated being extremely familiar with the property area of the single-family, multi-family residence, and is seeking RSM zoning.

Attorney Battle discussed the proposed conditions; maintenance of property; LEED accreditation; School Capacity for 2021; School Capacity October 4, 2011- Enrollment Report by School/Grade; Trip Generation Report; Renting vs, Buying; Market Study; and Appreciation Comparison – Recent Construction. Attorney Battle requested a recommendation of approval.

There were none in support of PETITION RZ-21-003.

There were several in opposition that spoke-in-person:

- 1. Ms. Faye Coffield was in opposition. Concern it is a Townhome. Do not see any value. And, later sold to investors. The greenspace not best for the community.
- 2. Ms. LaShawnda Walker was in opposition. See a crime problem. There are no improvements to the existing area.
- 3. Mr. Dean Phillips' only concern is, "What type of commercial buildings would be there?"

The Chairman replied that the question, should be addressed to the applicant/developer. The answer to your question is any retail space. The land is approved for retail space and can be used for a Small Strip Mall, Coffee Shop, FedEx, or Subway can be done now. Every applicant will have a Community Meeting to address questions. Suggested talking with Attorney Battle off-line.

- 4. Mr. Carl Manson was in opposition to the development. The developer has made no indication how deficiencies will be corrected. Existing storm drains have constant overflow. There are plans to put in septic tanks which are not feasible for common use. It is a mechanism to bypass DeKalb County. Major cuts to bypass. This is not acceptable.
- 5. Betty's IPad is opposed. Sated that, "I am speaking in opposition based upon many other factors that have already been discussed. Has lived in the area for twenty 20 years. The traffic has increased tremendously. Not only is it difficult to get out on the road in the morning, its practically, impossible to get to the intersection. So, adding 76 more homes would be just devastating to this community. Secondly, this is a project that is not needed. Like saying, we are going to dump it in regardless of how it affects the community.

So, I'm asking that you deny this project because, I see no value to it. The area is going down if you put something like this in it. So, deny it based upon the factors of traffic; based upon what it would do to the environment; and based upon the fact that it is simply adding destiny to an area that is already extremely overcrowded. Deny based on the traffic environment, no value, adding to density, etc.

6. Dee Sykes stated that Betty's iPad is the wife and agrees with her, along with the other comments that have been made in opposition. The opposition to this project is what everyone else has already said. The residents of Panola Mill wait as much as five minutes to make a left-hand turn in an unsafe turn. The density of traffic that goes along Panola Road and the fact that all the proposals that the State was going to widen another road, seems to have been a project not changed over the years. More waiting and don't know if that's ever really going to happen.

Also, the land that is being proposed for the 76-units condo is almost like a tradeoff - to say "Well, if you don't approve, this is what going to happen." Have concerns over HOA – after five years seen to fade away and becomes rentals. There goes what possibly could be the quality of life for the area. Sykes continued to speak on grocery stores, restaurants (going outside of the city to a sit-down restaurant), and economic development. There goes what

possibly could be the quality of life for the area and the impact on crime. If you think about all the businesses at Stonecrest and loss over the last ten years, and you're building more residential areas. Sykes asked, "What is going to support them?" I am expressing my opposition to the project based on those factors.

Comments read by the Secretary (ATTACHMENT III)

- 7. Ms. Michelle Stallworth was in opposition.
- 8. Ms. Alicia Miller was in opposition.
- 9. Ms. LaShawnda Walker was in opposition.
- 10. Ms. Donna Priest-Brown was in opposition.

Attorney Battle returned to give a rebuttal and closing remarks. Spoke on the challenging location; a lot of businesses have left the area. The mandatory HOA will not have; access to maintain green space; writing in the conditions; and we have done everything to show we are doing these things: sustainability, enhancing open spaces (area is too small for a clubhouse). A lot of people are very passionate about this project. We believe this project brings value. Traffic in the area has sufficient frontage. We are consisted with the requirements. Respectfully request recommendation of approval.

The Chairman closed the public hearing before going into discussion.

Chairman Hubbard motioned to **DEFER PETITION RZ-21-003** and hope the applicant reach back out to the community; hold another community meeting; and do a traffic study. Commissioner Hollis seconded the motion. The motion was not unanimously **DEFERRED**. The vote was 04-01. The Chairman and Commissioners Eady, Walker, and Hollis voted for the **DEFERRAL**. Commissioner Mathis voted against the **DEFERRAL**.

Due to the large number of comments received for **Duke Realty (PETITION CP-21-001 and RZ-21-004)**, Chairman Hubbard **EXTENDED** the time allotment on this for both parties. Instead of 10 minutes, the time was expanded to 20 minutes for the applicant and those with public comments. The Chairman wanted to make sure that every citizen had a voice at the meeting. Also, emails received were given 20 minutes to be read into the record for this application, the applicant and opposition.

Land use Petition:

CP-21-001

Petitioner:

Duke Realty

LOCATION:

2975 Evans Mill Rd and 6378 East Glen Rd

Proposed amendment:

Proposed amendment to the 2038 Stonecrest Comprehensive

Plan, amending the Future Land Use Map from City Center to

Light Industrial.

Planning & Zoning Director Jim Summerbell presented PETITION CP-21-001. Staff recommends DENIAL.

At approximately 8:24 PM, Commissioner Mathis apologized for the interruption and advised the Commissioners that she has been very active in meetings with the attorneys and developers, lives in the area, and with all fairness, must recluse herself from the meeting because of the interactions.

### The applicant, Mr. Harold Buckley Jr. addressed the Commissioners:

Mr. Buckley conducted the verbal presentation and stated that Mr. David Sprinkles will be working the graphics portion of the presentation. Mr. Buckley stated that he came before the Commissioners today on behalf of Duke Realty, as his attorney and a Certified Land Use Consultant. The application shows the proposed development as being all on the east side of Lithonia Industrial Blvd. Mr. Buckley summarized the supporting technical documentation that was submitted as part of the application, include Phase 1.

Mr. Buckley spoked on the following topics: the Survey; Site Drawing; Building Elevations; Comprehensive Plan (Page 173/204); using the site North of I-20; traffic concerns and residential areas; noise and light; the South property line along the East Glen truck portal; Land Use Policy; IDT Trip Table; jobs; Press Release, and AJC Press Release.

Regarding the Comprehensive Plan, the proposed project is consistent with the written policy. In addition to the Land Use Policy, this warehouse is consistent with the City's number through the entire business day. When the business is slow. You try to make that up after hours and on the weekend for the inventory and supplies. Retails and restaurants have been taken because of this function to the supply chain.

The 329,280 square foot proposed building project is directly adjacent to I-20; the Site Plan shows the vehicular access will come from Lithonia Industrial Boulevard; trucks can access it without traveling through communities; and is consistent with the Comprehensive Plan. There will be a 75-foot undisturbed tree buffer that protects residents from industrial light and noise. The overall opening is going to be 150 feet between the edge of the buffer and residents. The Warehouse Trip Generation analysis was discussed.

Mr. Buckley spoke on 4 Dirty Little Secrets; The Warehouse consistent with the economic development policy; Retails/Restaurants are lacking; and before the pandemic. Mr. Buckley said that the Staff Report listed the uses. This is raw land, less traffic, New Birth Church is across the street; did not see it in the Staff Report; there is a retirement community (Village East Duplexes), and single-family residences are along East Glen Road. Warehouses like this created DeKalb County Development work source classes. The jobs that create it will be a mix of hourly and salary positions, with a pre-pandemic hourly pay starting at the low end between \$10 and \$17 an hour. We have all seen the news stories about how employers are having a hard time finding jobs. Look at the size it will create 100+ jobs.

Mr. Buckley spoke on the revenue this project would bring to Stonecrest yearly. Look at this property in particular right now. Annual property tax bill on this 30-acre property is less than \$2400 a year. If development is allowed to go forward after it is complete, that annual tax bill will go from less than \$2400 (it's around 100) and \$86,000 every single year and the city's portion of that revenue grows. Specific to Stonecrest right now, up to \$2400 a year, the city only is \$88 once this facility is in place. Collection goes from \$88 a year since \$12,300 a year increase in revenue on the property. We've heard a lot of complaints about service delivery.

If you look at the Comprehensive Plan, not at the Future Land Use Map (the actual written information in the 275-page document) you will see that right now, the city of Stonecrest under existing language conditions says that 65% of the land within the city limits is dedicated to residential. Which is draining tax digests and only 14% of it is industrial which is where you make your money. So, in terms of benefits, a lot of benefits here and it's not just money.

There were none in support of PETITION CP-21-001.

There were several in **opposition** that spoke-in-person:

- Ms. Faye Coffield was in opposition and asked Mr. Buckley, "Do you want this in your neighborhood? We can hear the noise. This property never had a for sale sign up. The notice posted does not show the correct address."
- 2. Mr. Dave Marcus stated that these are issues to keep separate. Has nothing to do with the Comp Plan.

The Chairman asked Mr. Buckley to share the Slide from the presentation. Mr. Buckley's associate, Mr. David Sprinkles shared the slide depicting Lithonia Industrial Boulevard with much green and little red areas.

3. Ms. Renee Cail was in opposition and read a letter (ATTACHMENT IV).

Comment read by the Secretary (ATTACHMENT V):

4. Mr. Matthew Barnes

The Chairman called on Mr. Buckley for a rebuttal.

Mr. Buckley said that he was 'hot' right now. Maybe the exhibits were not accurate – people did not talk to us. If you know me – have a family that lives here.

Merit – First thing I heard...What are the right study?

- spent months getting heavy study.

So, if we did the wrong study; nobody else tried. The government gave this property an address.

The Chairman closed the public hearing before going into discussion.

The Chairman asked Mr. Summerbell is the address correct according to DeKalb County GIS?

Mr. Summerbell stated that signs were posted and that he posted them. The address is on the application.

Chairman Hubbard motioned to **DEFER PETITION CP-21-001** to give the applicant time to meet with the Community to have another Community Meeting. Commissioner Eady seconded the motion. The motion was unanimously **DEFERRED**.

Land use Petition:

RZ-21-004

Petitioner:

**Duke Realty** 

LOCATION:

2975 Evans Mill Rd and 6378 East Glen Rd

Proposed amendment:

Proposed rezoning from R-100 (Residential Medium Lot-100) Stonecrest Overlay Tier 4 to OD (Office/ Distribution) for the development of 329,280 sf Distribution Center. The rezoning would remove the subject property from the Stonecrest Overlay District.

District.

Planning & Zoning Director Jim Summerbell presented PETITION RZ-21-004. Staff recommends DENIAL based on findings and conclusions. If the Commissioners choose to approve the request in whole, the staff recommends approval with the following conditions:

- 1. The use of the subject project for any other use beside the request use shall be strictly prohibited.
- 2. Future development of the site shall be in compliance with the general concept plan submitted with this rezoning application prepared by Haines, Gipson & Associates, dated February 23, 2021.
- 3. Operation hours shall be limited to 7 AM 7 PM.
- 4. That the property remains within the Stonecrest Area Overlay but, as a part of Tier 6, Viewshed.

The applicant, Mr. Harold Buckley, addressed the Commissioners. Mr. Buckley said he was a firm believer that, what is said the first time, you better believe it. Also, stated that he had full support from his institutional partners (New Birth Missionary Baptist Church, The Allen Institute, and DSSA Properties) whose businesses and organizations borders the Duke Realty project.

There were none in support of PETITION RZ-21-004.

There were several in opposition spoke-in-person:

- 1. Ms. Faye Coffield was in opposition and said that Lithonia Industrial is a new road. Every place is not the right place; he said it was a waste of money to hold another meeting; instead of a deferral, go back and deny.
- 2. Mr. Dave Marcus was in opposition and said he was surprised with Mr. Buckley's answers; did hear of a second meeting; thirty people attended; the site is in Tier 4.

Mr. Buckley stated that he had spoken with someone, did not mention name, and reached out to the office of the City Council.

There was a discussion with the Chairman and Mr. Buckley regarding the statement that Mr. Buckley had communicated with the City Council Office. The Chairman asked, "Did you talk to any Planning Commissioner? "No" answered Mr. Buckley. Did a City Council's office talk with you? "Yes," answered Mr. Buckley.

The Chairman replied we are here to grow the city and building relationships.

The Chairman turned the floor over to Councilwoman Jazzmin Cobble.

Councilwoman Cobbles aid Mr. Buckley mentioned that he reached out to the office of the City Council. I just wanted to get some understanding of what that means. Council members is not a single person that represents the collective body. Mr. Buckley, "Who did you reach out to in the office of City Council? Who said that?" We are a collective body. I want clarity.

Mr. Buckley responded by saying, "I will share that information with Councilwoman Cobble privately."

Councilwoman Cobbles replied, Mr. Buckley, I am happy to have that conversation with you offline. The reason that I say that is, I'm concerned that given the emotion involved in this matter. Mr. Buckley replied, if I just say a name in this forum, that person is going to come under a significant amount of direct fire. So, I'm happy to share that information with Council Member Cobbles and then, if Council Member Cobbles wants to share that with the public or however, then that is fine. I just don't want to put someone you know out there in a way that could cause

them considerable blowback. For doing nothing more than trying to help us Cobble said there is not a single representative for the office of the City Council. So, there may have been an individual who you were speaking with trying to connect you as the residence or constituents together. However, that is not a representation of the Office of the City Council.

Mr. Buckley thanked Mr. Marcus for his comments.

The Chairman turned the floor over to Ms. Owners.

3. Ms. Owners was in opposition.

Time was called and the following comments were not read by the Secretary (ATTACHMENT VI):

- 1. Ms. Lucia Maddix was in opposition.
- 2. Ms. Lorna Lindsay was in opposition.
- 3. Mr. Jorani Thomas was in opposition.
- 4. S. Thomas was in opposition.
- 5. Ms. Alice Taylor was in opposition.

The Chairman closed the public hearing before going into discussion.

Chairman Hubbard motioned to **DEFER PETITION RZ-21-004.** Commissioner Eady seconded the motion. The motion was unanimously **DEFERRED**.

At 10:24 PM, after Duke Realty's petitions were heard, the Chairman asked Commissioner Mathis to rejoin the meeting.

Land use Petition:

RZ-21-005 – DEFERRED AT THE REQUEST OF THE

APPLICANT

Petitioner:

WSM Associates, LLC c/o Battle Law, P.C.

LOCATION:

6301 Browns Mill Rd

Proposed amendment:

Proposed rezoning from R-100 (Residential Medium Lot-100) to RSM (Small Lot Residential Mix) for the development of a 31 single family detached house community. The subject property is within and is proposed to remain within the Arabia

Mountain Overlay District.

Planning & Zoning Director Jim Summerbell stated that at the request of the applicant, **PETITION RZ-21-005** has been **DEFERRED**.

On behalf of the applicant, Ms. Jahee Prince stated she was a Planner and has concerns with the employees' parking space not allowed out front. Ms. Prince is supportive of the Draft.

There were none in support of PETITION RZ-21-005.

There were one in opposition that spoke-in-person:

1. Ms. Faye Coffield was in opposition.

The Chairman closed the public hearing before going into discussion.

Chairman Hubbard motioned to **DEFER PETITION RZ-21-005**. Commissioner Walker seconded the motion to **DEFER PETITION RZ-21-005**. The motion was unanimously **DEFERRED**.

Land use Petition:

TMOD-21-005

Petitioner:

Ashbury Automotive Group

LOCATION:

Stonecrest Overlay District

Proposed amendment:

Amendment Stonecrest Zoning Ordinance, Chapter 27, Article 3, Division 5, Stonecrest Area Overlay District text to allow

automotive dealerships as a permitted use.

Planning & Zoning Director Jim Summerbell presented **TMOD-21-005**. Planning & Zoning is simply updating the outdated codes and addressing housekeeping issues. Mr. Summerbell referred to the track changes in the Staff Report.

The applicant, Ms. Jahnee Prince, addressed the Commissioners. Ms. Prince stated that she was not a lawyer but, is a Planner. Represents auto dealerships like Nalley Toyota, Kia, Hyundai, and is helping to grow their business. Did not draft these text amendments; like them; and is concern only with the employees' parking spaces out front and not in the rear. Recommend these changes to the City Council for approval.

There were none in support of TMOD-21-005.

Spoke in-person: Mr. Dave Marcus was not in opposition but, commented that TMOD-21-005 has no impact on the dealerships currently in place, and that this may apply to new dealerships. Have concerns with the effects on the walking trails and paths.

### There was one in **opposition**:

 Ms. Faye Coffield was in opposition and asked why/what the changes were. Heard that the dealerships wanted to expand.

The Chairman asked Mr. Summerbell to explain, "Why change current dealership and should this apply to new dealerships?" The current Stonecrest Overlay mandates the change replied, Mr. Summerbell.

The Chairman closed the public hearing before going into discussion.

Chairman Hubbard motioned to **RECOMMEND APPROVAL TO THE CITY COUNCIL**. Commissioner Hollis seconded the motion to **RECOMMEND APPROVAL OF PETITION TMOD-21-005 TO THE CITY COUNCIL AND MAYOR.** The motion was unanimously **APPROVED**.

Land use Petition:

TMOD-21-006

Petitioner:

Planning & Zoning Department

LOCATION:

Stonecrest Overlay District

Proposed amendment:

Replacing outdated references in the Stonecrest Zoning Ordinance, Chapter 27, Article 3, Division 5, Stonecrest Overlay District text to the OCR (Office-Commercial-Residential) District with MU-4 (Mixed Use High Density) District, and RM-HD (Multifamily Resident High Density)

Planning Commission Meeting Minutes Summary | 08-03-2021 | Page 11 of 19

### with HR-2 (High Density Residential-2) District.

Planning & Zoning Director Jim Summerbell presented **TMOD-21-006**. Planning & Zoning is simply updating the outdated zoning codes and addressing simple housekeeping issues. Correction of outdated text references are highlighted in the track changes.

Commissioner Walker welcomed Commissioner Mathis to the Board. Commissioner Mathis stated it is a pleasure being here, learned a lot, and is looking forward to working with the Board.

The Chairman thanked Commissioner Walker and Mathis for the commercial before closing the public hearing and going into discussion.

Commissioner Mathis asked if the Chat comments would be included in the minutes. The Chairman stated that no comments sent directly to a Commissioner, but Chat sent to everyone would be included.

There were none in support of TMOD-21-006. There were none in opposition.

The Chairman closed the public hearing before going into discussion.

Chairman Hubbard motioned to accept TMOD-21-006, RECOMMEND APPROVAL TO THE CITY COUNCIL TO CORRECT THE OUTDATED REFERENCES IN THE CODE SECTION. Commissioner Eady seconded the motion. The motion was unanimously APPROVED.

### OTHER COMMENT NOT READ (ATTACHMENT VII):

1. Ms. Nadine White, Wellington Manor Subdivision, 5842 Trent Walk Drive, Lithonia, GA was in opposition.

### X. Adjournment

The vote was carried unanimously to adjourn the meeting at 10:49 PM. Commissioner Mathis motioned to adjourn. Commissioner Hollis seconded the motion.

### SPECIAL NOTE:

All comments received are included in the August 3, 2021, Planning Commission Meeting Minutes Summary (see ATTACHMENTS I and III-VI).

Visit the following link to view the <u>August 3 Planning and Zoning Meeting 6 PM - YouTube</u> in its entirety.

entitety.	APPROVED:	
	Chairman	
ATTESTED:	Date	
Secretary		
Date		



# Planning Commission Meeting August 3, 2021

### **ATTACHMENT I**

### **EMAILED PUBLIC COMMENTS**

Read by

Secretary Lillian Lowe

From:

Faye Faye <fayeiswhoiam@gmail.com>

Sent:

Thursday, July 29, 2021 1:28 AM

To:

Lillian Lowe

Subject:

Speaker Public Hearing for 3 August 2021

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Please include me on the in-person ZOOM speakers list for the Planning Commission meeting scheduled for 3 August 2021 at 6:00PM. I wish to speak on the following matters scheduled before the Planning Commission:

- 1. RZ-21-002
- 2. RZ-21-003
- 3. CP-21-001
- 4. RZ-21-004

Please forward the link to me at this email address

"...Power Concedes Nothing without Demand.... Frederick Douglas

Courage is standing up against injustice even when everyone else remains seated.

**Faye Coffield** 

From:

Jazzmin Cobble

Sent:

Monday, June 7, 2021 4:05 PM

To:

Jim Summerbell

Cc:

Lillian Lowe; Janice Allen Jackson

Subject:

Fwd: The rezoining of 3177 Panola Rd. and 5207 Thompson Nill Rd.

Sent as an FYI...

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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### www.cobbleforcouncilwoman.com

From: Jazzmin Cobble <JCobble@stonecrestga.gov>

Sent: Thursday, May 27, 2021 12:56:36 AM
To: Dinah A. Roberts <robert3476@aol.com>

Subject: Re: The rezoining of 3177 Panola Rd. and 5207 Thompson Nill Rd.

Hi Ms. Roberts,

This project is being proposed to be developed. It has not been approved nor has it come before the city as of yet. The developers, I believe, are waiting until after they meet with each community to get a feel for the feedback.

I plan to attend all the community meetings with Glencroft, Havenwood and Woodgrove.

#### Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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### /join

#### www.cobbleforcouncilwoman.com

From: Dinah A. Roberts <robert3476@aol.com>
Sent: Wednesday, May 26, 2021 7:13:37 PM
To: Jazzmin Cobble <JCobble@stonecrestga.gov>

Subject: Re: The rezoining of 3177 Panola Rd. and 5207 Thompson Nill Rd.

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Goid Afternoon Ms. Cobble,

I live in area 3 Glencrift Subdivision and I just receive a letter for the Battle Law Firm. They are having a meeting about rezoning an area that is already congested and all that comes alone with that, people blocking roads you can't get in out because of traffic, etc. There is no evidence of improving traffic flow. When did this come up for a vote in Stonecrest? Did everyone vote yes for this rezoning? We citizens voted for the city of Stonecrest we were told that all building permits would be consider in a manner that would make the city not over crowded with one ttype of building or community.

Townhomes are being built down the street pass Walmart, a large community and a large apartment complex across the stree from those townhomes. Now they want to build Townhomes near two large apartments on both sides of the street. Traffic is already a nightmare. I have sign up for the Zoom meeting and wanted to know this prior to the meeting. I have already been contacted by several communities in the area and they did not have an answer for me. Again, thank you for your time.

Thank you for answering my questions.

Sincerely, Dinah Roberts

Sincerely,

Sent from the all new AOL app for Android

From:

Jazzmin Cobble

Sent:

Monday, June 7, 2021 4:04 PM

To:

Jim Summerbell

Cc:

Lillian Lowe; Janice Allen Jackson

Subject:

Fwd: Panola & Thompson Mill (HELP)

Sent as an FYI...

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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www.cobbleforcouncilwoman.com

From: Jazzmin Cobble <JCobble@stonecrestga.gov>

Sent: Saturday, May 29, 2021 9:54 AM

To: Franklin Eaves

Cc: George Turner; Rob Turner; Tammy Grimes Subject: Re: Panola & Thompson Mill (HELP)

Thank you Mr. Eaves!

I've heard your position loud and clear sir. I plan to attend all 3 community meetings this week that the applicant intends to hold for Woodgrove, Havenwood and Glencroft.

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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### www.cobbleforcouncilwoman.com

From: Franklin Eaves <franklin2230038@yahoo.com>

Sent: Saturday, May 29, 2021 8:04:51 AM

To: Jazzmin Cobble <JCobble@stonecrestga.gov>

Subject: Panola & Thompson Mill (HELP)

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I am certain you are aware of this... We DO NOT want more townhouses built in Stonecrest especially at Panola & Thompson Mill... why can't we get a Whole Foods, Sprouts, Starbucks or another type of business... Please help us... NO MORE RESIDENTIAL TOWNHOUSES unless the residential homes are stand alone and something like John Wieland type homes... HELP US please Madam Councilwoman.

### From my neighborhood:

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fnextdoor.com%2fp%2f4Hphq8ddZdFg%3futm\_source%3dshare %26extras%3dMTkxNzY2NjE%253D&c=E,1,yWsMYd5Nmkl64F4PvYpZyjNyix1lodiXbBvi2qHxe2vXTtbL0ldoFKFAKbNNNI4 ojMwWaQH8SnY7jHYCwgaNM2djdRBQg57xE\_d\_v7ocChrgiB5R-ZQZEWfig,,&typo=1

Sent from my iPhone

From:

Jazzmin Cobble

Sent:

Monday, June 7, 2021 4:03 PM

To:

Jim Summerbell

Cc:

Lillian Lowe; Janice Allen Jackson

Subject:

Fwd: Panola-Woodgrove meeting

Sent as an FYI....

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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www.cobbleforcouncilwoman.com

From: Jazzmin Cobble <JCobble@stonecrestga.gov>

Sent: Tuesday, June 1, 2021 11:29:01 PM

To: famu4us <famu4us@bellsouth.net>; George Turner <GTurner@stonecrestga.gov>

Subject: Re: Panola-Woodgrove meeting

Thank you Harold and it's great to hear from you! I've heard your concerns loud and clear.

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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www.cobbleforcouncilwoman.com

From: famu4us <famu4us@bellsouth.net>
Sent: Tuesday, June 1, 2021 7:42:27 PM

To: George Turner <GTurner@stonecrestga.gov>
Cc: Jazzmin Cobble <JCobble@stonecrestga.gov>

Subject: Panola-Woodgrove meeting

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Good Afternoon Councilman Turner,

I trust your day continues to go well.

I've just attended the referenced meeting regarding the Panola-Woodgrove Project, presided and hosted by Michele Battle Esq., as she represented her clients who proposes to develop a 92 unit townhome property in district 3 at the Southwest corner of Panola Road and Thompson Mill road. In order to do this they are seeking to have the zoning change from NS and R100 to MR1. The units will price from \$250K upwards. We are opposed to this development and rezoning for the following reasons:

- Traffic concentration with no relief
- Further Constrains the Panola Mill Subdivisions Ingress and Egress efforts from Panola Road
- Further Imposes Traffic congestion on Panola
- Imposes further Population Density to District 3 who already has the highest population density of Stonecrest
- · Site has a high accident rate already
- The current infrastructure i.e. water, sewer, drainage and roads in my opinion and that of many others, does not support further development, until they are caught up.

If the owners want to develop, then let them do it under the current zoning.

Thank you,

Harold Smith and Patricia Smith
Hunters Communities,
City of Stonecrest, District 4

From: Jaseka Mabry <no-reply@zoom.us> Sent: Monday, May 31, 2021 7:21 PM

To: famu4us@bellsouth.net

Subject: Panola-Woodgrove meeting Confirmation

Hi Harold Smith,

Thank you for registering for "Panola-Woodgrove meeting".

Please submit any questions to: jtm@battlelawpc.com

Date Time: Jun 1, 2021 06:00 PM Eastern Time (US and Canada)

Join from PC, Mac, Linux, iOS or Android: Click Here to Join

Passcode: 608027

Note: This link should not be shared with others; it is unique to you.

Add to Calendar Add to Google Calendar Add to Yahoo Calendar

### Or One tap mobile

US: +16465588656,,88489398796# or +13017158592,,88489398796#

### Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 9128 or +1 253 215 8782 or +1

346 248 7799

Meeting ID: 884 8939 8796

Passcode: 608027

International numbers available: https://us02web.zoom.us/u/kdyhr6TZdO

You can cancel your registration at any time.

From:

Jazzmin Cobble

Sent:

Monday, June 7, 2021 4:07 PM

To:

LaShawnda Walker; Jimmy Clanton; Rob Turner; George Turner; Tammy Grimes

Cc:

Jim Summerbell; Lillian Lowe; Janice Allen Jackson

Subject:

Re: Proposed Rezoning and Comprehensive Land Use Change for 3177 Panola Rd and

5207 Thompson Mill Rd.

Thanks Ms. Walker!

Your concerns regarding this rezoning have been heard loud and clear.

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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From: LaShawnda Walker < lashawnda.walker9@gmail.com>

Sent: Friday, June 4, 2021 4:31:35 PM

To: Jimmy Clanton < JClanton@stonecrestga.gov>; Rob Turner < RTurner@stonecrestga.gov>; Jazzmin Cobble

<JCobble@stonecrestga.gov>; George Turner <GTurner@stonecrestga.gov>; Tammy Grimes

<tgrimes@stonecrestga.gov>

Subject: Re: Proposed Rezoning and Comprehensive Land Use Change for 3177 Panola Rd and 5207 Thompson Mill Rd.

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Greetings Stonecrest City Council Members,

I am writing you all to express my opposition to the proposed rezoning request being represented by the law practice "Battle Law, P.C." for their client "Apex Land Company". I am a resident of the Glencroft subdivision and the original homeowner. When I purchased my home I was living in unincorporated Lithonia; however, now I live in the City of Stonecrest due to the misguided intentions of the current mayor of Stonecrest (i.e.: Jason Lary). When the city was created, where I live fell into the 3rd District for the City. I noticed that District 3 was the smallest geographical area for the city of Stonecrest and since the city was created with an initial population of ruffly 55,000 that informed me that District 3 was the smallest of the 5 Districts because it was the most densely populated portion of the city. Now there is a proposal being presented by Ms. Michele L. Battle, Esq. to rezone the corner lot on Panola and Thompson Mill road

along with the adjacent property on Thompson Mill road for a 92 unit "townhome project". District 3 is currently the most densely populated part of the city with existing traffic problems on both Panola road and Thompson Mill road; therefore, a new development of a "townhome project" is not needed nor wanted at the proposed location. I was on the Zoom calls this week with Michele L. Battle on Tuesday (June 1, 2021) and Thursday (June 3, 2021) and no one except Ms. Battle spoke in favor of this "proposed rezoning request". Please see below the list of concerns from your constituents who live in and near the area of the proposed development.

- Panola and Thompson Mill roads have a preexisting traffic problem and there are numerous accidents along this
  corridor.
- 2. The proposed "townhome project" will not have any amenities that would be attractive to their targeted audience (i.e. Empty Nesters and Young Working Professionals)
  - Amenity Examples: Pool, Exercise Room, Business Center, Clubhouse, Biking/Walking Trails, Thriving food district like a Krog City Market or a Ponce City Market or a Westside Ironworks, etc...
- 3. The proposed location for this "project" is the most densely populated part of the city of Stonecrest
- 4. The proposed "townhome project" will not be a gated "project"; however, it would be located directly across from the Cavalier @ 100 "gated" apartment community.
- 5. The proposed "townhome project" will not enhance the "quality of life" for the existing residents of Stonecrest

Finally thoughts, it is my hope and belief that we now have a City Council that can see through the darkness of what these types of "projects" are offering the citizens of Stonecrest. That is, more bricks, concrete and asphalt with no regard to the "quality of life" for the existing residents in the city. I would love to see that area as a "community park" with park benches, a water feature, walking paths, a playground for the local children, a tennis court and a pavilion for family and community gathering; however, I guess we will have to wait until the "truth, justice, and equity" sun shines upon us.

I listed 5 specific reasons for the City Council to deny this proposed rezoning requested because it is my hope and belief that if this measure comes before the City Council there will be 5 "No" votes on this matter.

\*\*\*Your Vote Matters\*\*\*

Do you know about "The Trust for Public Land" organization?

Best regards,

LaShawnda Walker lashawnda.walker9@gmail.com

From:

Jazzmin Cobble

Sent:

Monday, June 7, 2021 4:08 PM

To:

Louise Wise

Cc:

Jim Summerbell; Lillian Lowe; Janice Allen Jackson

Subject:

Re: Rezoning Proposal at Panola and Thompson Mil

Thank you Ms. Wise!

Your concern regarding this rezoning matter has been heard loud and clear. Thank you for your input and support of the city and of course of District 3 as well.

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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From: Louise Wise <wiselouise.lw@gmail.com>

Sent: Friday, June 4, 2021 8:59:50 PM

Subject: Rezoning Proposal at Panola and Thompson Mil

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Dear City Council Member,

I am opposed to the rezoning proposal in the City of Stonecrest at 3177 Panola Rd and 5207 Thompson Mill Rd for a townhome project.

The infrastructure of the area has not been taken into consideration. The area has heavy traffic. Also, there are no benefits of having these townhouses at this particular location. Lastly, it takes away greenspaces. There is no increase in quality of life to current residents by having townhouses at this location.

Thank you for your time, Louise Wise

From:

Jazzmin Cobble

Sent:

Monday, June 7, 2021 4:14 PM

To:

Joys Jazz

Cc:

ehubbard@stonrcrestga.gov; Jim Summerbell; Lillian Lowe; Janice Allen Jackson

Subject:

Re: REZONING PROPOSAL

Thank you very much for your email. I have heard your concerns loud and clear regarding this rezoning. Thank you for your input and support of our community.

There will be at least 2-3 more opportunities for you to provide additional feedback to the applicant, planning commission and city council in the very near future, if you would like to comment further. However, I have your concern noted!

#### Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

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www.cobbleforcouncilwoman.com

From: Joys Jazz <1joysjazz@gmail.com>
Sent: Sunday, June 6, 2021 1:00:25 PM

To: Jazzmin Cobble <JCobble@stonecrestga.gov>

Cc: ehubbard@stonrcrestga.gov <ehubbard@stonrcrestga.gov>

Subject: REZONING PROPOSAL

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Rezoning Proposal In the City of Stonecrest. Battle Law is representing a client, Apex Land Company, for a proposed rezoning of 3177 Panola Rd and 5207 Thompson Mill Rd for a 92 unit "townhome project". I am opposed to this proposal for the following 3 reasons: (Note: There are other residents in the area with additional opposing views.) 1. No infrastructure changes have been implemented to address the preexisting traffic problems with Panola Road and Thompson Mill Road. 2. This proposal is in District 3 which is the smallest geographical area in the city of Stonecrest because when the city was created the area was already very densely populated. (Note: Compounding the population problem in District 3 will impact other areas of the city especially those who utilize Panola and Thompson Mill roads.) 3. It will remove the existing greenspace and will not improve the quality of life for the existing residents.

Panola Mill Subdivision Resident.

From:

Carl Manson < crlmanson@aol.com>

Sent:

Friday, June 25, 2021 1:56 PM

To:

Lillian Lowe

Cc:

lashawnda.walker9@gmail.com

Subject:

Rezoning request from Apex Land Development

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Ms. Lowe,

I am opposed to the development proposed by Apex Land Development. The proposed project presents a number of problems. Among these are a potential violation of the Modified Consent Decree that covers Dekalb County. Judge Steven Grimberg's order requires Dekalb to provide an impact analysis for any new development that will connect to the existing Sewer System. To the best of my knowledge, this has not been done. In addition the project will create a large area of impervious surface that will flood Panola Rd and produce run off onto neighboring properties. The developer has produced no plans to mitigate this issue. In addition, the developer will flow traffic onto a Panola Rd deceleration lane which will block the Panola Mill Subdivision from exiting or entering their subdivision. Again, the developer has produced no plans to address this issue. Finally, the construction will produce significant disruption of traffic on Thompson Mill Rd. Thank you for your attention to these issues.

Carl E. Manson Sr. 770-981-0834 5024 Panola Mill Dr. Stonecrest, Ga. 30038

From: LaShawnda Walker < lashawnda.walker9@gmail.com>

Sent: Sunday, June 27, 2021 3:32 PM

To: Lillian Lowe

Cc: Eric Hubbard; Jim Summerbell; Tuyanna Daniel; Jimmy Clanton; Rob Turner; Jazzmin

Cobble; George Turner; Tammy Grimes; Keeter, Patrece; Johnson, Mereda D.; Cochran-

Johnson, Lorraine; doreen.carter@house.ga.gov; emanuel.jones@senate.ga.gov

Subject: Re: Rezoning Application RZ21-003 Apex Land Company represented by Battle Law, P.C.

for the purposed rezoning of 3177 Panola Rd and 5207 Thompson Mill Rd

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Greeting Ms. Lowe,

I am submitting this email to be read into the record for the Tuesday, July 6, 2021 Planning Commission meeting as an opposition to the proposed rezoning request (i.e.: RZ21-003) for the two parcels of land at 3177 Panola Rd and 5207 Thompson Mill Rd. The rezoning request should be denied for the following specific reasons:

- 1. According to information provided by Lynn Patterson in a Atlanta Regional Commission (ARC) Community Planning Academy Economic Development 101 lecture, the cost for community services are the highest for a residential development versus a commercial or industrial development. Only one parcel of land is actually zoned as residential and it is zoned as R-100 which would be a lower density development for the property acreage and the other parcel of land is zoned as Neighborhood Shopping (NS) which is commercial and would be at a lower cost for services to the community. Therefore, the applicant is requesting to build a development which would be at a higher cost to the community than a development that is aligned with its current zoning.
- 2. The proposed site for the development is at the corner of Panola and Thompson Mill road which has a preexisting traffic problem and there are numerous accidents along this corridor. To my knowledge DeKalb County performed a traffic study along this area of Panola road and determined there was a need to reconstruct the road; however, once the city of Stonecrest was created the reconstruction project appears to have been put on hold. Therefore, allowing a rezoning for a maximum density development in an area with a preexisting traffic problem would only enhance the traffic problem not solve the problem.
- 3. The proposed town-home project will not enhance the "quality of life" for the existing residents of Stonecrest by adding more traffic congestion along Panola and Thompson Mill road. It will also add more density to the most densely populated district of the city which is District 3. District 3 is the smallest geographical area of the city of Stonecrest because when the city was created the area that became District 3 already had several town-home, condo, apartment and subdivision communities. The fiscal impact of the proposed development in District 3 is questionable and there has been no indication that the Stonecrest Economic Development department has done a fiscal impact analysis for the proposed rezoning request.
- 4. The proposed town-home project has been presented as being targeted for "empty nesters" and "young working professionals"; however, no amenities will be provided to attract the said "targeted audience" such as business/fitness center, club house, biking/walking trails or a close proximity to food halls like Krog Street Market (KSM) or Ponce City Market (PCM).

- 5. The proposed town-home project will not be a gated project and would be built in the backyard of the Panola Mills subdivision which has the potential to cause additional traffic problems for the residents.
- 6. The proposed town-home project has the potential to increase crime in the local area by implementing a maximum density development for two small parcels of land (i.e.: 9.56 acres) that cannot be developed without the rezoning application being approved. (Note: I used <u>crimemapping.com</u> to run a report on the number of crimes committed within a 2 mile radius of the Lowe's Home Improvement store in District 3 and there were 70 records for the past 7 days and 315 records for the past 31 days. The crimes included assault, vehicle break-in/theft, theft/larceny, fraud, etc...)
- 7. The proposed town-home project will not have security cameras at the entrance and exit points and will have multiple ways of entering and existing the property in a vehicle as well as on foot.
- 8. District 3 has very little green space and the proposed development will removed the existing green space and replace it with a maximum density town-home project that cannot be built without a rezoning. Hence, replacing existing green space while remaining undeveloped is doing nature's job of helping to clean the "air quality" in the environment and proposing to build a 76 town-home project consisting mainly of asphalt, bricks and concrete which will contribute to the problem of "global warming".
- 9. There is a current "DeKalb County, Georgia Consent Decree" for a violation of the "Clean Water Act" and the proposed development has the potential to add to the problems of the pollution of the Panthers Branch which is a tributary that feeds into the South River. Furthermore, a citizen has asked about whether or not an impact analysis has been done for the proposed development and to my knowledge he has not been given an answer.

In closing, these are only 9 of the many reasons the application should be denied and it is my hope and belief that our Planning Commission as well as our elected city officials will not go against the will of the people.

Best regards,

LaShawnda

LaShawnda Walker lashawnda.walker9@gmail.com mobile: (770) 323-9594

skype: lashawnda.walker

http://www.linkedin.com/in/lashawndawalker

From: PATRICIA A WILLIS <pwil789@comcast.net>

Sent: Thursday, June 10, 2021 6:22 PM

To: Rob Turner <RTurner@stonecrestga.gov>

Cc: Jimmy Clanton < <u>JClanton@stonecrestga.gov</u>>; Jazzmin Cobble < <u>JCobble@stonecrestga.gov</u>>; George Turner < GTurner@stonecrestga.gov>; Tammy Grimes < tgrimes@stonecrestga.gov>; Janice Allen Jackson

<jallenjackson@stonecrestga.gov>; Jim Nichols <jnichols@stonecrestga.gov>; Alejandro Ferrell

< Al. Ferrell@stonecrestga.gov >; Tasha White < twhite@stonecrestga.gov >; Matthew Brown

< MBrown@stonecrestga.gov>; Camille Taylor < CTaylor@stonecrestga.gov>; pwil789@comcast.net

Subject: Concerns: Water Boys, Litter/Lack of Mowing/Proposed Property Rezoning

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Rob,

Thank you so much for taking my call today. Again, I thank you and the City of Stonecrest Commissioners for your hard work and working together to put the necessary policies and controls in place to protect our valuable assets and to help our city grow. Here is a summary of my concerns that we discussed today.

- The Water Boys at Panola and Wesley Chapel (not Stonecrest, but still our community): I am concerned about their practice of selling water at the exit. Their approach is extremely dangerous and some of them have very aggressive behaviors. Initially I gave them money and supported their entrepreneurial spirit, but this has gotten completely out of control. I am concerned about their safety and the safety of drivers.

In addition, these young men are totally disrespecting our community by not cleaning up behind themselves and leaving carts at the exits. This is such an eyesore and totally unacceptable. This must be addressed. I feel threatened and try to avoid them when I am coming home. They have created an eyesore in our community and are not being held accountable for their actions. It is still spring, and this issue will only get worst if it is not stopped. We deserve better.

Trash/Litter/Overgrown Grass –The amount of litter and overgrown grass/weeds on our exits and street is depressing. It looks as though no one cares. How can Stonecrest attract new businesses when this is the first impression of our city. There does not seem to be a regular schedule for picking up litter or mowing grass. Who in the city is responsible for this? The Panola Road Exit, Farmington Road area really saddens me. We need trash picked up no less than once per week. Our exits desperately need beautification but a good grass cutting, and trash pickup on a regular basis will be a good start. This was one of the promises made when cityhood was presented.

This commitment has not been kept and each year our city looks worst and worst.

Proposed Rezoning at 5207 Thompson Mill and 3177 Panola Road – I recently attended a meeting led by Attorney Michele Battle for a proposed rezoning of this property. Her client is Apex Land Company who wants to build 92 Townhouses on this property. They are proposing the main entrance/exit on Thompson Mill Road with an additional exit on Panola Road. A traffic study has not been done. Based on the presentation during this meeting, I am opposed to this townhouse community being built. I ask that you and the City Council vote NO on this project. Our current infrastructure does not support any additional traffic on Panola Road. Thompson Mill is backed up daily pass this property. This will only create additional bottleneck with traffic and will be unsafe. In my opinion, these townhouses which they say will start at \$250, 000 will not add value to our community and I am very concerned that this will bring more rentals to the area. Stonecrest must not be a dumping ground for poor construction and projects that other cities in Metro Atlanta will not approve.

Thank you again for your time and I look forward to you following up on when and how these issues will be addressed.

Best Regards,

Patricia Willis

Stonecrest Resident and Property Owner

From:

Jazzmin Cobble

Sent:

Wednesday, July 28, 2021 10:44 AM

To:

Betty Sykes

Cc:

Lillian Lowe

Subject:

RE: Rezoning at Panola and Thompson Mill Rd

Thank you for reaching out to me Ms. Sykes!

I have heard your concerns loud and clear. Thank you for your engagement and support!

From: Betty Sykes <br/>
Sent: Thursday, July 1, 2021 9:46 AM

To: Jazzmin Cobble <JCobble@stonecrestga.gov>
Subject: Rezoning at Panola and Thompson Mill Rd

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

JULY

1,2021

To Commissioner Cobble,

I am writing to you to express my strong opposition to the proposed rezoning of the property located at 3177 Panola Road and 5207 Thompson Mill Road. My family and I have been residents of the Panola Mill Subdivision for 21 years. As you are aware the Panola Mill subdivision is located directly behind the properties that are under consideration for rezoning. The potential development of 76 town homes would have a negative impact on the quality of life for the residents of Panola Mill, Glen Croft, Haven wood and Wood Grove subdivisions. These subdivisions are already surrounded by two apartment complexes and the residents are faced with the daily challenge of navigating in and out of heavy traffic along Panola Rd. We purchased our home for similar reasons like the other homeowners did in this area, we all purchased a home for the peace, quietness and security that a home provides, and just as importantly it is our largest financial investment which will be adversely affected by this proposed development. As I have mentioned due to the amount of traffic, crime and population density in this development this project will have a negative impact on the entire community.

As a concerned citizen and longtime resident I have to ask why would the city of Stonecrest seek to add townhomes to an area where the roads, traffic lights and services do not support the current homeowners and businesses? The development of multi-family housing will only contribute to traffic and safety issues in the Panola Road and Thompson Mill Road corridor. The traffic patterns clearly show that the area cannot support any additional vehicles and provide safety for pedestrians which this development would bring, particularly without proper planning and security enhancements. In addition, take into account the schools in the area. Has anyone completed a study to see how this

community would impact the schools in the area? Our schools on this end of the county are dealing with overcrowding, struggling students, a high teacher to student ratio and a lack of parental involvement. Is the developer willing to contribute financially to build additional classrooms for our schools?

There are currently several townhome developments on Covington Highway, Chupp Road and Phillips Road being built at this time. There appears to be a desire to saturate an area with little regard for the individuals who live in the area, particularly the tax paying homeowners. We are concerned with what these communities will look like four to five years from now. We can see the results of dilapidated and abandoned townhouses on Snap finger Road near Miller Road which are an eye sore to the community. The homeowners in this area do not want to see this happen in our community, I am concerned that our property values will plummet due to the fact that multi-family homes or townhomes over a period of time may not be maintained, in addition many become rental property with people frequently moving in and out. While I see some business development in the area, there is simply not enough shopping, sit down dining in the area that would be beneficial to growth and diversity. In addition to this I am asking the city of Stonecrest to focus on keeping this area as green space. This area is over-developed.

Finally, it has come to my attention that there is an appearance of a conflict of interest involving the listing agent/ broker Edwina Clanton and Commissioner Jimmy Clanton. Mrs. Edwina Clanton is listed as the broker for this property. Mr. Clanton should be recused from the entire process. Mr. Clanton should not have a vote during the entire proceeding. This process should not be influenced because the broker is a commissioner's wife.

I urge you to disapprove the proposed rezoning and from talking with my neighbors I know many share my opinion. Please support the homeowners of Stonecrest who are supporting the city with their tax dollars. Do not sell us out.

Sincerely,

**Betty Sykes** 



## Planning Commission Meeting August 3, 2021

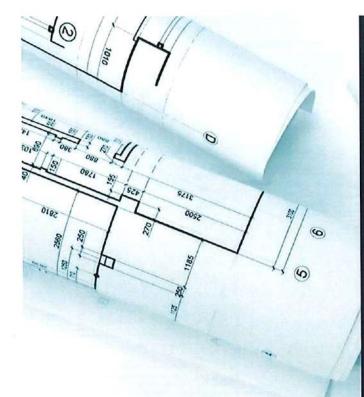
### **ATTACHMENT II**

## POWERPOINT PRESENTATION RZ-21-003

By

Attorney Michelle Battle, Battle Law Firm 3562 Habersham at Northlake Tucker, Georgia





# THOMPSON MILL/PANOLA ROAD DEVELOPMENT

3177 PANOLA ROAD AND 5207 THOMPSON MILL ROAD/TAX PARCELS 16 022 01 245 AND 16 022 01 023

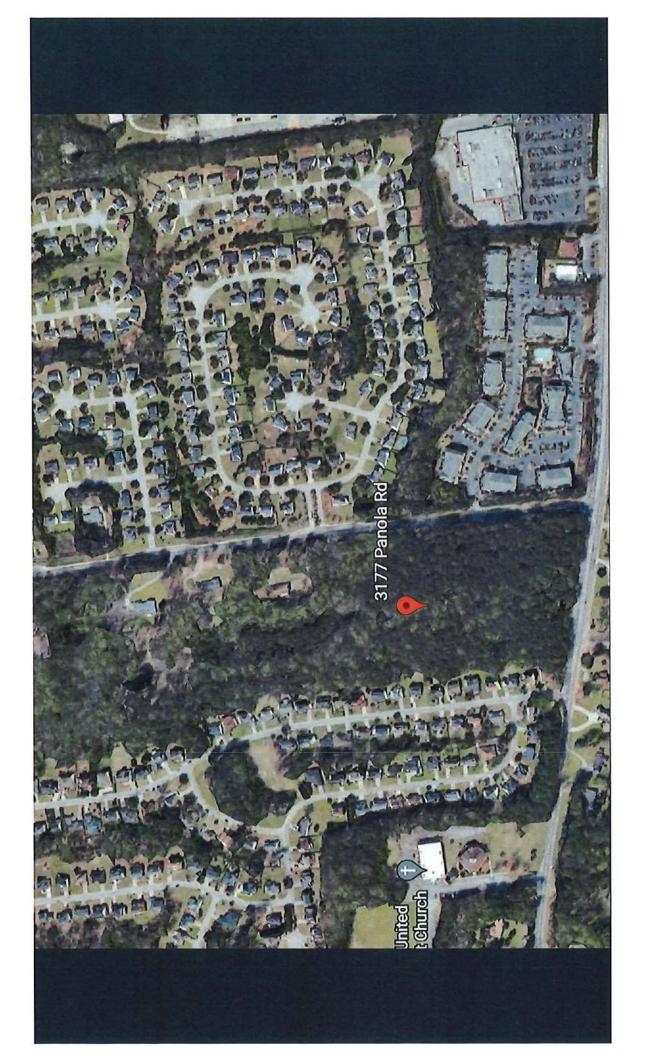
Rezoning

# PURPOSE

Apex Land Company is seeking a rezoning.

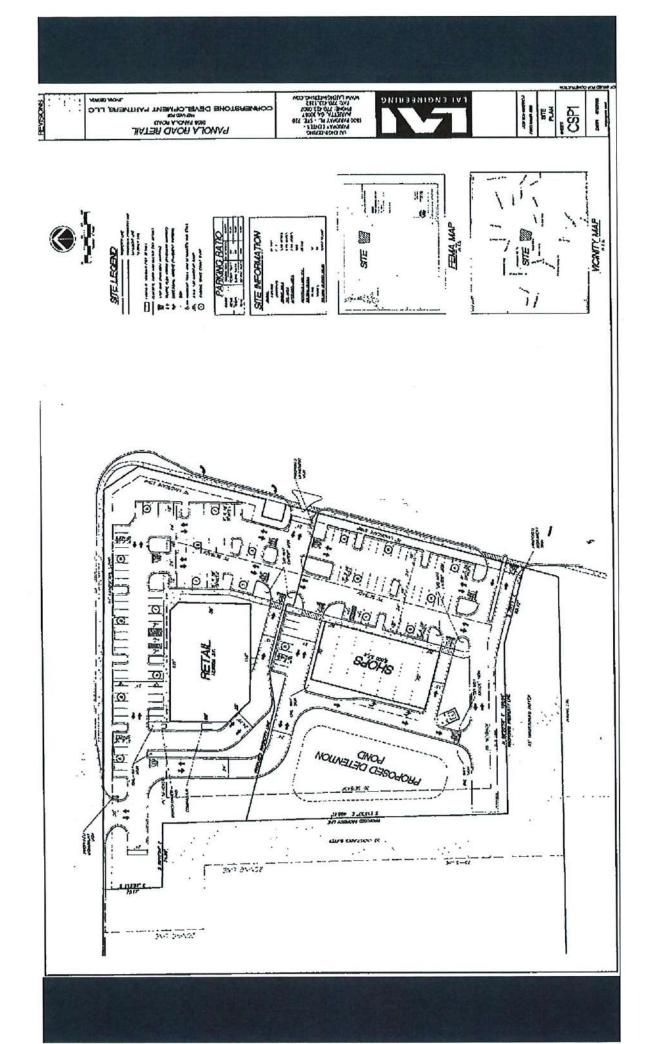
Current zoning of each parcel is NS and R-100. Proposed zoning is RSM.

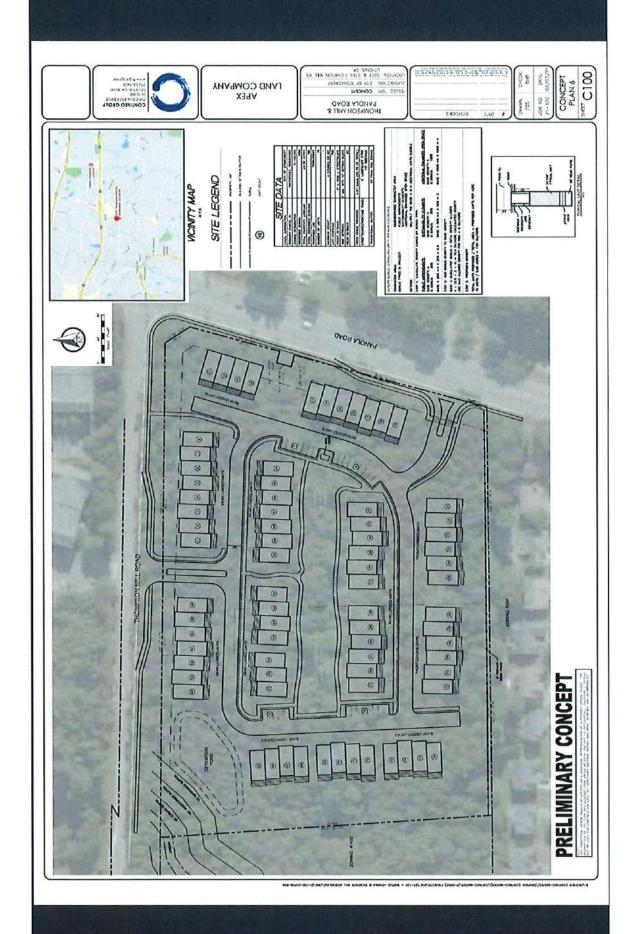
The goal is to build a 76-unit townhome community.



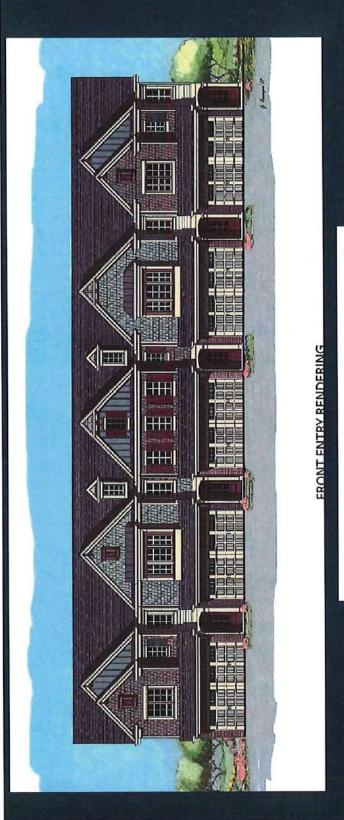
#### MSA MSA Fairington Physy Clariogo C.r. MR-1 20 R-100 R-100 001.4 rosita MR.1 MR-3 Winstow Crossing & MR4 3 R.100 3 3 5 001-8 001-8 001-8 001-8 3 R-100 A-100 A-100 55 3 ba nioneq 3 R-100 5 R-100 °S Z 2 Paim Tree Of Panota Mill Dr R-100 Month of the Company R-100 gaolf mist Clen Dr R-100 R-100 2 W 8-75 8-75 8-70 R-100 2 2 RSM 2 2 R-100 2 Z Water St. Z 8-100 R-100 R-100 N R-100 R-100 R-100 OHIN R-100 ď R-100 R-100 R-100 RSM **ZONING MAP** R-100 B-100 X 6 001-8 001-8 001-8 001-8 001-8 001-8 001-8 R-100 Show search results for 3177 8-100 R-100 IVVIOG CE 001-8 601-8 001-8 001-8 001-8 R-100 R-100 001-8 001-8 001-8 001-8 001-8 001-8 3177 Panola Road R-100 Way 001-A хем обридко R-100 8-100 R-100 R-100 R-100 Þ 2.100 8-100 febram 18 000.0 R-100 R-100 R-100 R-100 R-100 R-100

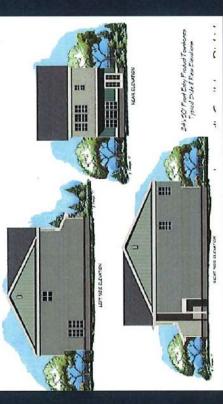
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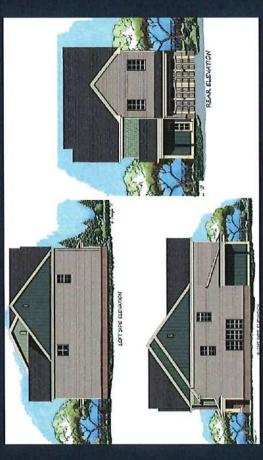












# Trip Generation Report

	Weekday Average Daily Trips	verage Dail	y Trips	>	/eekday A Adjacent	Weekday AM Peak Hour of Adjacent Street Traffic	our of		Weekday PM Peak Hour of Adjacent Street Traffic	eekday PM Peak Hour Adjacent Street Traffic	our of
ITE Land Use	* Enter	Exit	Total	*	Enter	EX	Total	*	Enter	Exit	Total
220 LOW-RISE 1	278	278	556		o	28	37		58	17	46
76 Dwelling Units										1	
Unadjusted Volume	278	278	556		6	28	37		59	17	46
Internal Capture Trips	0	0	0		0	0	0		0	0	0
Pass-By Trips	0	0	0		0	0	0		0	0	0
Volume Added to Adjacent Streets	278	278	256		თ	28	37		53	11	46
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ITE Land Use	* Enter	Exit	Total	*	Enter	Exit	Total	*	Enter	Exit	Total
814 STOREVARIETY 2	311	311	622		18	5	31	5	35	32	. 62
9.8 1000 Sq. Ft. GFA											
815 STOREDISC 1	319	318	638		9	4	4		29	29	28
12 1000 Sq. Ft. GFA											
Unadjusted Volume	630	630	1260		28	17	54		2	19	125
Internal Capture Trips	0	0	0		0	0	0		0	0	0
Pass-By Trips	120	120	240		0	0	0		16	16	32
Volume Added to Adjacent Streets	510	510	1020		28	17	45		48	45	93

Total Weekday Average Dally Trips Internal Capture = 0 Percent
Total Weekday AM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent
Total Weekday PM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

# RENTING VS. BUYING

Rents at Cavalier at 100	Rents at Creekside Corners	What about This Proposed Community's Payment?
1 Bed - \$1300 for 772saft	1 Bed - \$1275-\$1305 for 696 If someone put down 20% on a \$250,000 home they would to 814sqft	If someone put down 20% on a \$250,000 home they would
Z Ded - \$1770 IOI 11325410	60-\$1695 for 1054	month:
3 Bed - \$1980 for 1558sqft	to 1154sqtt	- \$10/5 on the loan - \$230 in taxes; and
280 Units Total	3 Bed - \$1755-\$1825 for 1354sqft	- \$50 for HOA fees
	463 Units Total	Only putting down 10% would raise the payment about \$100.

# FREQUENTLY ASKED...

Proposed building materials: Mixture of stone and brick accents; fiber cement

Unit sizes: 1200-1500sqft

number of bedrooms: 2-3

Garages: Mostly 2 car garages

Amenities: Walking trails and open green spaces

Gated community: No.

security cameras: Left to new, mandatory, HOA's discretion

Anticipated list price: High 200's

Rear entry or front entry: Mixture of both

Anticipated building start date: Infrastructure will begin in 6-8 months after approval and closure. New units will begin going up in the 2nd quarter of 2022

# Important Dates

Planning Commission August 3, 2021 City Council August 23, 2021



# Planning Commission Meeting August 3, 2021

#### **ATTACHMENT III**

### EMAILED COMMENTS FOR RZ-21-003

Read by

Secretary Lillian Lowe

From:

michelle stallworth < belmont5828@yahoo.com>

Sent:

Sunday, June 27, 2021 6:56 PM

To:

Lillian Lowe

Subject:

Rezoning application RZ21-003

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I am a resident of Stonecrest and I expressing my reason way the rezoning application RZ21-003 should be denied. The city of Stonecrest already have so many townhomes, subdivisions and apartments that are not kept clean. These areas are not made to make improvements to make our city more attractive and livable. The area requested is already over populated. Traffic is bad enough with 2 lanes and accidents always happening. This will not bring any value or amenities to our city. These townhomes will not attract what our city so desperately needs. The townhomes will be a non gated community without security. The area already have high crime activity and may potentially increase with these townhomes. Most townhomes in our city start off nice, but eventually become an eye sore. We have enough of these eye sores already in the city of Stonecrest, that needs to change. These are my reasons why the rezoning application RZ21-003 needs to be denied.

Thank you, Michelle Stallworth Stonecrest Resident

Sent from my iPhone

From:

Ms Walker < lashawnda.walker9@gmail.com>

Sent:

Monday, June 28, 2021 6:27 PM

To:

Lillian Lowe

Subject:

Re: CONFIRMATION: Commissioner Cochran-Johnson\_Rezoning Application RZ21-003

Apex Land Company represented by Battle Law, P.C. for the purposed rezoning of 3177

Panola Rd and 5207 Thompson Mill Rd

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Thanks for the acknowledgment of my email and I am also hoping to see more quality developments within Stonecrest unfortunately the proposed development by Apex Land Company for the corner of Panola road and Thompson Mill road does not cut the mustard. As a side note, because that area is minutes from I-20 we need to be very mindful of the potential developments that are put in this location. Best regards, LaShawnda

Sent from my iPhone

On Jun 28, 2021, at 11:10 AM, Lillian Lowe <Lillian.Lowe@stonecrestga.gov> wrote:

Good morning Commissioner Cochran-Johnson,

Thank you for the comments for the upcoming July 6<sup>th</sup> Planning Commission Meeting. Comments will be read and recorded in the minutes.

Best regards,

Lillian Lowe

PLANNING & ZONING DEPARTMENT
PLANNING COMMISSIONERS SECRETARY
ZONING BOARD OF APPEALS SECRETARY

#### **City of Stonecrest**

direct: 770.224.0173 | main: 770.224.0200 | fax: 470.299.4214

www.stonecrestga.gov

From: Cochran-Johnson, Lorraine < LCJohnson@dekalbcountyga.gov>

Sent: Monday, June 28, 2021 11:00 AM

To: LaShawnda Walker <lashawnda.walker9@gmail.com>; Lillian Lowe <Lillian.Lowe@stonecrestga.gov> Cc: Jim Summerbell <jsummerbell@stonecrestga.gov>; Tuyanna Daniel <TDaniel@stonecrestga.gov>; Jimmy Clanton <JClanton@stonecrestga.gov>; Rob Turner <RTurner@stonecrestga.gov>; Jazzmin Cobble <JCobble@stonecrestga.gov>; George Turner <GTurner@stonecrestga.gov>; Tammy Grimes <tgrimes@stonecrestga.gov>; Keeter, Patrece <pgkeeter@dekalbcountyga.gov>; doreen.carter@house.ga.gov; emanuel.jones@senate.ga.gov; Davis, G. Leah

<GLDavis@dekalbcountyga.gov>

Subject: CONFIRMATION: Commissioner Cochran-Johnson\_Rezoning Application RZ21-003 Apex Land Company represented by Battle Law, P.C. for the purposed rezoning of 3177 Panola Rd and 5207 Thompson Mill Rd

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Ms. Walker,

I am in receipt of your Email. I understand your concerns. As a Stonecrest resident, I understanding our economic impact, so I too desire development that are in-line with our economic capacity. I personally take no issue with the development of higher density units if they are in line with what I see in Dunwoody and Doraville. In those areas I am seeing three level homes with rooftops options, in gated communities with extremely high-end amenities.

I support the vision of my community and as I move forward I will personally consider your Email.

Best regards,

Lorraine Cochran-Johnson, Commissioner, M.P.A., M.S.

Deputy Presiding Officer 2019-2021

DeKalb County Board of Commissioners | District 7

1300 Maloof Building | 5<sup>th</sup> Floor | Decatur, GA 30030

Office: 404.371.2899 | Cell: 470.889.4211 | Fax: 404.371.7004

www.CommissionerLorraineCochranJohnson.com

As your Commissioner I am committed to being a change agent in DeKalb that produces results. Please view my first quarter report here <u>VIEW THE BOOK</u>

"The key to realizing a dream is to focus not on success but on significance — and then, even the small steps and little victories along your path will take on greater meaning."

Oprah Winfrey

<image001.jpg>

From: LaShawnda Walker < lashawnda.walker9@gmail.com>

Sent: Sunday, June 27, 2021 3:32 PM

To: Lillian Lowe < Lillian.Lowe@stonecrestga.gov >

Cc: e7hubbard@gmail.com; Jim Summerbell < jsummerbell@stonecrestga.gov >;

tdaniel@stonecrestga.gov; Jimmy Clanton < jclanton@stonecrestga.gov >; Rob Turner

<rturner@stonecrestga.gov>; Jazzmin Cobble <<u>icobble@stonecrestga.gov</u>>; George Turner

<gturner@stonecrestga.gov>; Tammy Grimes <tgrimes@stonecrestga.gov>; Keeter, Patrece

<pgkeeter@dekalbcountyga.gov>; Johnson, Mereda D. <mdjohnson@dekalbcountyga.gov>; Cochran-

Johnson, Lorraine < LCJohnson@dekalbcountyga.gov >; doreen.carter@house.ga.gov;

emanuel.jones@senate.ga.gov

Subject: Re: Rezoning Application RZ21-003 Apex Land Company represented by Battle Law, P.C. for the purposed rezoning of 3177 Panola Rd and 5207 Thompson Mill Rd

Greeting Ms. Lowe,

I am submitting this email to be read into the record for the Tuesday, July 6, 2021 Planning Commission meeting as an opposition to the proposed rezoning request (i.e.: RZ21-003) for the two parcels of land at 3177 Panola Rd and 5207 Thompson Mill Rd. The rezoning request should be denied for the following specific reasons:

From:

Alicia Miller <aliciadoreene17@gmail.com>

Sent:

Monday, June 28, 2021 5:56 PM

To:

Lillian Lowe

Subject:

Rezoning Request - Thompson Mill Road and Panola Road

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Ms.Lowe..

I have been a resident and property owner in the Panola Mill Subdivision, Stonecrest (Lithonia), Georgia for 32 years and as such, I have a vested interest and concern for this community. Needless to say I have watched this community grow exponentially; progressively most assuredly, yet almost to a point of saturation. In your role in the Planning Director's office, I am sure you are aware of these developments.

My family and I are opposed to the request to rezone the land at the corner of Thompson Mill Road and Panola Road to build a 71-unit townhome development. I am sure you and the city council members are acutely aware of the heavy traffic at this specific intersection, and the accidents and inconvenience we experience on a daily basis. This situation is not only dangerous but costly to those of us concerned about not only the safety of the residents and guests visiting the community but also the potential to further lower our property values. This proposed development, along with the existing apartment complex at this same intersection, would cause a gridlock of dense traffic and further change the suburban residential tone of our neighborhood. Although others will benefit greatly financially from this structure, the tax paying residents who work, live and raise their families in this area will receive no such compensation or benefit.

Signage indicating that the road is turning into one-lane from Thompson Mill Road to Rock Springs Road is a more crucial consideration at this time.

Thank you.

Alicia Miller 404/295-1613

From:

Jazzmin Cobble

Sent:

Tuesday, June 29, 2021 6:27 PM

To:

Lillian Lowe

Cc:

Jim Summerbell; Janice Allen Jackson; George Turner

Subject:

Fwd: Opposed to Rezoning Request

FYI...

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

\*Subscribe to our District 3 Newsletter http://gem.godaddy.com/signups/31297b68cef943e9983f898f52490b2a/join/join

#### www.cobbleforcouncilwoman.com

From: Jazzmin Cobble < JCobble@stonecrestga.gov>

Sent: Tuesday, June 29, 2021 6:26:22 PM
To: Alicia Miller <aliciadoreene17@gmail.com>
Subject: Re: Opposed to Rezoning Request

Thank you Ms. Miller for your feedback!

I've heard your concerns loud and clear. Thanks for your support and continued engagement in our city!

#### Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

\*Subscribe to our District 3 Newsletter http://gem.godaddy.com/signups/31297b68cef943e9983f898f52490b2a/join /join

www.cobbleforcouncilwoman.com

From: Alicia Miller <aliciadoreene17@gmail.com>

Sent: Thursday, June 17, 2021 12:57 PM

To: Jazzmin Cobble

Subject: Opposed to Rezoning Request

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Ms. Cobble.

I have been a resident and property owner in the Panola Mill Subdivision, Stonecrest (Lithonia), Georgia for 32 years and as such, I have a vested interest and concern for this community. Needless to say I have watched this community grow exponentially; progressively most assuredly, yet almost to a point of saturation. In your role as District 3 Councilwoman, I am sure you are aware of these developments.

My family and I are opposed to the request to rezone the land at the corner of Thompson Mill Road and Panola Road to build a 71-unit townhome development. As District 3 City Council Member, I am sure you and your city council members are acutely aware of the heavy traffic at this specific intersection, and the accidents and inconvenience we experience on a daily basis. This situation is not only dangerous but costly to those of us concerned about not only the safety of the residents and guests visiting the community but also the potential to further lower our property values. This proposed development, along with the existing apartment complex at this same intersection, would cause a grid lock of dense traffic and further change the suburban residential tone of our neighborhood. Signage indicating that the road is turning into one-lane from Thompson Mill Road to Rock Springs Road is a more crucial consideration at this time.

Thank you.

Alicia Miller 404/295-1613

From: Donna Priest-Brown < dpriestbrown@bellsouth.net>

Sent: Monday, July 5, 2021 9:24 PM

To: Lillian Lowe

Cc: Eric Hubbard; Jim Summerbell; Tuyanna Daniel; Jimmy Clanton; Rob Turner; Jazzmin

Cobble; George Turner; Tammy Grimes

Subject: Opposition for the Rezoning Application of Panola Road and Thompson Mill Road -

Town Homes

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Ms. Lowe,

This communication serves as my opposition for the proposed rezoning of land use at 3177 Panola Road and 5207 Thompson Mill Road for the 76 town home units.

Stonecrest has an over saturation of town home units in District 3; especially on W. Fairington Parkway and Fairington Road. Since my arrival in this area 25 years ago, these existing town homes have deteriorated in value and attractiveness whereas in other parts of DeKalb County (Central and North), town homes have held their values in terms of competitive market rates and aesthetics.

My suggestion for future city planning as it relates to these types of development is to repurpose the existing town home inventory in the locations mentioned above.

For future land use for the Panola and Thompson Mill Roads, please consider green space for community use to include the following: playground, water park, outdoor gym, waterfalls, fountains, outdoor chess boards, botanical garden, walking trail, museum, etc. This new green space will enhance quality of life for physical and mental health for our citizens.

Finally, I have attended 3 of the Apex Land Company Zoom meetings, and was not impressed with any of the features regarding this development.

Please re-image Stonecrest in a holistic, tranquil and unique way when deciding future land use.

Thanks for your consideration in this manner.

Best regards,

Donna Priest-Brown

District 3 Resident

From:

Donna Priest-Brown cdpriestbrown@bellsouth.net>

Sent:

Tuesday, July 6, 2021 5:16 PM

To:

Lillian Lowe

Cc:

Eric Hubbard; Jim Summerbell; Tuyanna Daniel; Jimmy Clanton; Rob Turner; Jazzmin

Cobble; George Turner; Tammy Grimes

Subject:

Re: Opposition for the Rezoning Application of Panola Road and Thompson Mill Road -

**Town Homes** 

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Eric,

Why was the virtual meeting cancelled for today, July 6?

Please provide feedback.

Thanks,

Donna Priest-Brown

On Monday, July 5, 2021, 9:23:49 PM EDT, Donna Priest-Brown <a href="mailto:dpriestbrown@bellsouth.net">dpriestbrown@bellsouth.net</a> wrote:

Hello Ms. Lowe,

This communication serves as my opposition for the proposed rezoning of land use at 3177 Panola Road and 5207 Thompson Mill Road for the 76 town home units.

Stonecrest has an over saturation of town home units in District 3; especially on W. Fairington Parkway and Fairington Road. Since my arrival in this area 25 years ago, these existing town homes have deteriorated in value and attractiveness whereas in other parts of DeKalb County (Central and North), town homes have held their values in terms of competitive market rates and aesthetics.

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Finally, I have attended 3 of the Apex Land Company Zoom meetings, and was not impressed with any of the features regarding this development.

Please re-image Stonecrest in a holistic, tranquil and unique way when deciding future land use.

Thanks for your consideration in this manner.

Best regards,

Donna Priest-Brown

District 3 Resident



# Planning Commission Meeting August 3, 2021

#### ATTACHMENT IV

## EMAILED COMMENTS FOR **CP-21-001**

From:

Renee Cail <disoni7@yahoo.com>

Sent:

Tuesday, August 3, 2021 11:10 AM

To:

Lillian Lowe; Eric Hubbard

Cc:

Jim Summerbell; JW Eady; Joyce Walker; phollisbroker@gmail.com

Subject:

Land Use Petition RZ-21-003, CP-21-001, RZ-21-004, RZ-21-005, TMOD-21-005

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

#### Good Evening Everyone:

I am writing this letter as I am concerned about the influx of developers trying to change our zoning laws/ordinances which were designed to guide, protect and structure our city. The Comprehensive Plan 2035 was initiated to formulate and address various aspects of models to develop a thriving community.

The Stonecrest charter mandates preparation of the Comprehensive Plan every 5 years NOT when developers and zoning lawyers petition for changes that suit them.

As a resident of unincorporated Lithonia and subsequently the city of Stonecrest for over 30 years I am exhausted with the haughty disregard for the people of Stonecrest and surrounding neighborhoods! I have watched zoning lawyers bring their clients to this area with their factories, manufacturing plants, warehouses, gas stations, storage units, and dollar stores. Where do they sit? Right in the heart of African American, rural, and marginalized communities.

I appreciate Duke Realty for sending us information about the proposed warehouse but this warehouse it is unwanted by many of the people who live here. From Duke's Letter of Intent, it implies that Aquatic life, wildlife, the impact on our senior living development, our sewer systems that this project will not disturb these critical components that directly impact residents living in this area. WE don't want more pollution and traffic jams from diesel trucks. A warehouse will disturb our environment and decrease property values.

The AWARE Wildlife center stated, "Development is a large cause of habitat loss in our wild spaces." They went on to state that deforestation can leave many animals orphaned. Is that the reason we see foxes, tiny fawns, turtles, geese, ducks running amuck? Developers need to honor or ordinances and go to areas where they won't invade neighborhoods. The wildlife centers have to literally get volunteers to remove as many turtles as possible before their habitats are destroyed? Are they going to remove us next?

Dukes letter showing Sewer Capacity stated, "It has been determined that based on Department of Watershed Interim Sanitary Sewer Capacity Evaluation it has been determined that Dekalb Watershed Management 's wastewater collection, transmission and treatment system has adequate capacity to receive wastewater flow contribution from your sewer service connection as documented in your sewer capacity request." Approval to proceed with the project is granted with regards to sanitary sewer capacity. How is this possible when Dekalb County is under a modified consent decree? It is unclear if there is adequate capacity in the collection processing systems.

Also, how often do developers place these projects in Buckhead neighborhoods, Alpharetta, Sandy Springs, Roswell neighborhoods? How often do you destroy their greenery down and disturb their quiet living spaces? Have you surveyed them to see if they want a dusty warehouse in their neighborhoods?

Please deny the projects listed above and stop the disease of environmental racism.

Sincerely,

Renee Cail CHASE



# Planning Commission Meeting August 3, 2021

#### **ATTACHMENT V**

### EMAILED COMMENTS FOR CP-21-001

Read by

Secretary Lillian Lowe

### CP-21-001 + RZ-21-009

#### **Lillian Lowe**

From:

Matthew Barnes < matt\_barnes 70@yahoo.com >

Sent:

Sunday, August 1, 2021 4:52 PM

To:

Lillian Lowe

Cc:

Jenniferbarnes.6401@gmail.com

Subject:

City of Stonecrest Planning Commission hearing Aug 3 @ 6pm, Virtual Meeting

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Lillian Lowe,

I am writing in reference to the hearing to be held by the Planning Commission on Aug 3rd @ 6pm. I understand this is a virtual meeting and I am requesting the link so that I may attend. I would prefer to attend in person if that is allowed. The notice sign says that the meeting is held at Stonecrest City Hall, 3120 Stonecrest Blvd. on August 23rd if required, Could I attend in person to the public hearing at City Hall on the 3rd? Would you please verify? However, I still wish to receive the link info for attendance to the hearing.

My concerns of the hearing pertain to the rezoning are listed below.

LAND USE PETITION:

CP-21-001

PETITIONER:

Duke Realty

LOCATION:

2975 Evans Mill Rd and 6378 East Glen Rd

PROPOSED AMENDMENT:

Proposed amendment to the 2038 Stonecrest Comprehensi amending the Future Land Use Map from City Center to L

LAND USE PETITION:

RZ-21-004

PETITIONER:

**Duke Realty** 

LOCATION:

2975 Evans Mill Rd and 6378 East Glen Rd

PROPOSED AMENDMENT:

Proposed rezoning from R-100 (Residential Medium Lot Overlay Tier 4 to OD (Office/ Distribution) for the develop

#### My first concern is improper notice posting to the public of the rezoning.

A public notice sign was placed at the dead end of East Glen Rd on July 19, 2021 across from my drive way where no one but myself or people turning around due to it being a dead end road would see the sign. There are no other signs at the end where East Glen Rd meets Evans Mill Rd nor are there are signs on Evans Mill Rd notifying the public of this rezoning hearing.

I feel that there should be more notification to the public pertaining to the rezoning.

My second concern pertaining to the rezoning and building of a Distribution Center is that noise and air pollution are going to increase.

Currently Interstate 20 can be heard at my residence, in the yard, even inside the house, and my property also lies beneath plane airway paths. Building this large distribution facility across from my residence will not only remove the trees and wildlife that separate my residence from the interstate that currently keeps noise from the interstate lower, but the removal of the trees and the installation of a distribution center will increase the noise and air pollution to my residence with use of Transfer trucks and other equipment that are generally used at distribution centers, usually 24 hrs a day.

My residence is located at 6401 E Glen Rd and is the last house where East Glen Rd ends.

Also on Evans Mill Rd there is a retirement community that is adjacent to the area where the distribution center is to built, what about their quality of living. Since there was no sign on Evans Mill Rd I am sure that they have not been properly notified of what the City of Stonecrest is planning in their back yard.

I feel there should be no rezoning from residential to Industrial where there are only residential and no other industry in this specifically residential zoned area.

Again, please reply pertaining to in person meeting information and send the link for virtual meeting.

Thank you for your consideration.

**Matthew Barnes** 



## Planning Commission Meeting August 3, 2021

#### **ATTACHMENT VI**

### EMAILED COMMENT FOR RZ-21-004

Not Read by

Secretary Lillian Lowe

From:

Faye Faye <fayeiswhoiam@gmail.com>

Sent:

Thursday, July 29, 2021 1:28 AM

To:

Lillian Lowe

Subject:

Speaker Public Hearing for 3 August 2021

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Please include me on the in-person ZOOM speakers list for the Planning Commission meeting scheduled for 3 August 2021 at 6:00PM. I wish to speak on the following matters scheduled before the Planning Commission:

- 1. RZ-21-002
- 2. RZ-21-003
- 3. CP-21-001
- 4. RZ-21-004

Please forward the link to me at this email address

"...Power Concedes Nothing without Demand.... Frederick Douglas

Courage is standing up against injustice even when everyone else remains seated.

**Faye Coffield** 

RZ-21-004

From:

Tuyanna Daniel

Sent:

Monday, June 28, 2021 8:57 AM

To:

Jim Summerbell

Cc:

Lillian Lowe

Subject:

FW: Stop The Warehouse Project From Coming to Stonecrest

See below opposition.

From: Lucia Maddix <maddix0706@gmail.com>

Sent: Sunday, June 27, 2021 7:14 PM

To: Tuyanna Daniel <TDaniel@stonecrestga.gov>

Subject: Stop The Warehouse Project From Coming to Stonecrest

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Ms. Tyanna Daniel,

I am writing to ask you to oppose the application by Duke Realty to rezone R-100 (single family dwelling to (O/D Office/Distribution Warehouse), for a Distribution Warehouse across from New Birth Missionary Church. I live in the Chaparral Subdivision. My property values will decrease, and it will increase pollution due to an increase in toxins from diesel trucks. The warehouse would be across the street from New Birth Church. The warehouse will not fit the character of the area.

Sincerely, Lucia Maddix

BZ-21-004

From:

Jazzmin Cobble

Sent:

Wednesday, July 28, 2021 10:42 AM

To:

Lillian Lowe

Subject:

FW: Duke Realty's Application for Rezoning

From: lor lind < Naptowndreamer@hotmail.com >

Sent: Monday, July 5, 2021 3:43 PM

To: Jim Summerbell < jsummerbell@stonecrestga.gov>

Cc: Janice Allen Jackson <jallenjackson@stonecrestga.gov>; Tammy Grimes <tgrimes@stonecrestga.gov>; Jazzmin

Cobble <JCobble@stonecrestga.gov>; George Turner <GTurner@stonecrestga.gov>; Rob Turner

<RTurner@stonecrestga.gov>; Jimmy Clanton <JClanton@stonecrestga.gov>

Subject: Duke Realty's Application for Rezoning

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Planning Director Summerbell,

I am opposed to Duke Realty's application to rezone property that is currently zoned R-100, residential to OD, office/distribution. Our quality of life would be negatively impacted by the increased traffic, noise, and pollution a distribution center would bring.

The City of Stonecrest Comprehensive Plan talks about public outreach and community engagement and refers to area residents as stakeholders. I want to see these values maintained and I ask that you deny Duke Realty the opportunity to meet with the Planning Commission before a public hearing is held.

I look forward to seeing the City of Stonecrest encourage a high level of community involvement and prioritize working toward excellence.

Sincerely,

Lorna Lindsay 3461 Fox Hound Run Stonecrest, GA 30038

RZ-21-004

From:

Jazzmin Cobble

Sent:

Wednesday, July 28, 2021 10:43 AM

To:

Lillian Lowe

Subject:

FW: Warehouse Project Coming to Stonecrest

----Original Message----

From: Jorani T. <joranii@outlook.com> Sent: Thursday, July 15, 2021 5:34 PM

To: Jazzmin Cobble <JCobble@stonecrestga.gov>
Subject: Warehouse Project Coming to Stonecrest

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown sender's.

Dear Ms. Jazzmine Cobble,

The possible warehouse project coming to Stonecrest should not be approved. With the warehouse coming to Stonecrest, it will bring the property value down when it should be going up as time passes. Not to mention, the diesel trucks coming through the residential area will mess up our roads and be a disturbance to not only the environment because of the toxins and pollution but also the people. Our area should not become a commercial area because it's surrounded by green space. We already have industrial areas for things like the warehouse project to go to. Therefore, the possible warehouse project coming to Stonecrest should not be allowed.

Sincerely, Jorani Thomas Resident of District 5

R2-21-004

#### **Lillian Lowe**

From:

Jazzmin Cobble

Sent:

Wednesday, July 28, 2021 10:42 AM

To:

Lillian Lowe

Subject:

FW: Warehouse project

From: S Thomas <nazayaja@gmail.com> Sent: Thursday, July 15, 2021 7:20 PM

To: Jazzmin Cobble <JCobble@stonecrestga.gov>

Subject: Warehouse project

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

The possible warehouse project coming to Stoncrest should be stopped as soon as possible. The reason why it should be stopped is because it will bring property value down which should be going up. Also the diesels trucks that emits dangerous toxins. The warehouse project will be located across the street from New Birth. The warehouse will also pollute neighborhoods. This is why I think the possible warehouse project coming to Stonecrest should be stopped

RZ-21-004

Ms. Alice Taylor 6600 Mohave Court Lithonia, GA 30038 August 3, 2021

Mrs. Lillian Lowe Planning and Zoning Secretary Zoning Board 3120 Stonecrest Blvd., Suite 190 Stonecrest, GA 30038

Dear Mrs. Lowe,

#### RE: PLEASE READ THIS LETTER DOING PUBLIC COMMENTS TONIGHT

My name is Alice Taylor and I have been a citizen of Stonecrest (aka Lithonia) for 32 years. I am a resident of the Chaparral Subdivision which is located in District 5. I am vehemently against Duke Realty's request to build a 329,280 square foot warehouse/distribution center at 2975 Evans Mill Rd. and 6378 East Glen Rd. This land is zoned for residential use in the 2038 Comprehensive Plan and located in District 5. Also, if Duke Realty is allowed to build in this area that is zoned for residential, there will be a negative impact on our property value and quality of life brought on by heavy truck traffic, constant noise and pollution.

Also, I don't want to see a huge warehouse/distribution center as a welcome sign to the City of Stonecrest. Allowing a developer to build an industrial facility in a residential area would be a gross lack of concern for the quality of life for the residence living there. My desires and expectations for the City of Stonecrest is to have elected officials who truly care about what the citizens want and do not want in their city. In order for the City of Stonecrest to look according to the Comprehensive Plan and the Future Land Use Map, Duke Realty's request should be denied.

Best Regards,

Alice Taylor



# Planning Commission Meeting August 3, 2021

# **ATTACHMENT VII**

# OTHER EMAILED COMMENT FOR

Not Read by

Secretary Lillian Lowe



#### **Lillian Lowe**

From:

Jazzmin Cobble

Sent:

Monday, June 7, 2021 4:02 PM

To:

NADINE WHITE

Cc:

Jim Summerbell; Lillian Lowe; Janice Allen Jackson

Subject:

Re: Rezoning

Thank you Pastor White!

Your concerns regarding this rezoning in District 3 have been heard loud and clear.

Thanks a bunch!

Jazzmin R. Cobble City Council District 3 3120 Stonecrest Blvd. Stonecrest, GA. 30038 www.stonecrestga.gov City Cell: 470-381-8525 City Hall: 770-224-0200

\*Subscribe to our District 3 Newsletter http://gem.godaddy.com/signups/31297b68cef943e9983f898f52490b2a/join /join

www.cobbleforcouncilwoman.com

From: NADINE WHITE < nadinewhite 6162@comcast.net>

Sent: Friday, June 4, 2021 12:38:04 PM

To: Jazzmin Cobble <JCobble@stonecrestga.gov>

Subject: Rezoning

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

The excessive traffic we deal with in this area on a daily bases is overwhelming. We experience situations of careless drivers speeding to the point lives are jeopardized both young and old whether walking or driving. So we want to minimize danger and maximize safety and we want to live in an safe, clean and uncongested environment as you do. Pastor Nadine White

Wellington Manor Subdivision 5842 Trent Walk Drive Lithonia



CP-21-001 and RZ-21-004 Withdrawal

#### Planning Commission Meeting September 7, 2021

#### **GENERAL INFORMATION**

Petition Numbers: CP-21-001 and RZ-21-004 – Withdrawal at Applicant's Request

**Applicant:** Duke Realty Corporation

Owner: Tract 1: Steward Properties, Attn: Pete Siegenthaler

Tract 2: DSSA Properties, Attn: Sam Stewart

**Project Location:** Southeast Corner of Lithonia Industrial Blvd and I-20, Official address -

Tract 1: 6378 E Glen Rd, Tract 2: 2975 Evans Mill Rd REAR

City Council District: District 5 (Council Member Tammy Grimes)

**Acreage:** Approximately 31 acres, Tract 1 - 20.98 acres, Tract 2 – 10.05 acres

**Existing Comprehensive Plan** 

**Character Area Designation:** City Center

**Proposed Comprehensive Plan** 

**Character Area Designation:** Light Industrial

**Existing Zoning:** Stonecrest Area Overlay, Tier 4 (Transitional Mixed Use Zone), Base

zoning R-100 (Residential Med Lot) District

**Proposed Zoning:** OD (Office Distribution) District (see RZ-21-004)

**Proposed Development/Request:** The applicant is requesting to amend the Future Land Use Map of the

2038 Stonecrest Comprehensive Plan for the subject property, in conjunction with a rezoning request, RZ-21-004, so that the rezoning would be in compliance with the policies of the Comprehensive Plan. The proposed development is for a 329,280 sf Distribution Center.

**Previous Action:** Cases were heard at the August 3, 2021 Planning Commission Meeting.

Planning Commission took action to defer both cases to the September 7, 2021 Planning Commission Meeting to give the applicant time to meet with the Community. The motion was unanimously **DEFERRED**.

On August 19, 2021 – the applicant requested a WITHDRAWAL of their applicants, see attached email from Harold Buckley to Jim Summerbell.

Staff Recommendation: Acceptance of Applicant Withdrawal



RZ-21-003

#### Planning Commission Meeting September 7, 2021

#### **GENERAL INFORMATION**

**Petition Number:** RZ-21-003

Applicant: Apex Land Company, LLC

Owner: Zacharia Majed; Mohammed Al Mulki Rania; Amir Haffer

**Project Location:** 3177 Panola Rd and 5207 Thompson Mill Road,

Parcel Numbers 16 022 01 245 and 16 022 01 023

**District:** District 3 – Jazzmin Cobble

Acreage: Approximately 9.56 acres

Existing Zoning: R-100 (Residential Med Lot) District and NS (Neighborhood Shopping)

**Proposed Zoning:** RSM (Small Lot Residential)

**Comprehensive Plan Character** 

Area Designation Suburban

**Proposed Development/Request**: A 65-unit townhome community

Staff Recommendations: Approval with conditions

Previous Action: Planning Commission heard the case on August 8, 2021 and DEFER

PETITION RZ-21-003 in hope that the applicant would reach back out to the community; hold another community meeting; and do a traffic study. Chairman Hubbard made the motion, Commissioner Hollis seconded the motion. The motion was not unanimously **DEFERRED**. The vote was 04-01. The Chairman and

Commissioners JW Eady, Walker, and Hollis voted for the

**DEFERRAL**. Commissioner Mathis voted against the **DEFERRAL**.

**Subsequent Action by Applicant:** At the time of this staff report preparation, the applicant has

scheduled another public information meeting on the development to be held on September 1, but did not prepare a traffic study. Instead

undertaking a study, the applicant reduced the scale of their

development from 76 to 65 housing units.



RZ-21-003

# **Aerial Map**



Zoning Case: RZ-21-003

Address: 3177 Panola Road and 5207 Thompson Mill Road



RZ-21-003



3



RZ-21-003

#### **PROJECT OVERVIEW**

#### Location

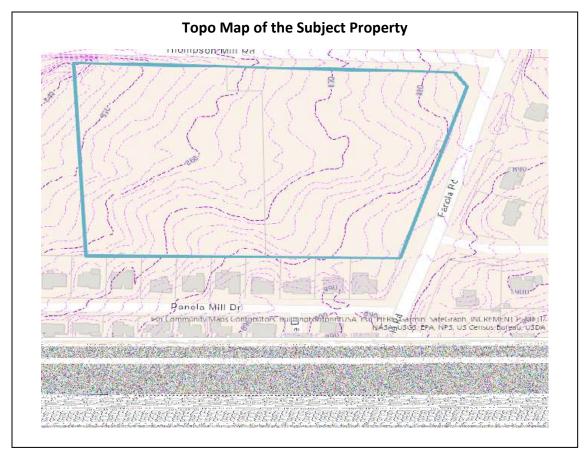
The subject property is located at 3177 Panola Road and 5207 Thompson Mill Road. The property is located at the intersection of Thompson Mill Rd and Panola Road.

The property is bounded by Thompson Mill Road to the north, a single family home to the west. Panola Mill Subdivision to the South, and Panola Road to the east. Winslow Crossing Subdivision is located across Panola Road to the east, and Cavalier @100 apartment complex is located across Thompson Mill Road to the north.

#### **Background**

Currently, the property is vacant, and zoned for single-family residential, R-100 and Neighborhood Shopping. The subject property was previously rezoned by DeKalb County in 2008, CZ-08-15000 for a 25,000 sf shopping center, see attached Dekalb County case report.

The topography of the property relatively level sloping away from Panola Road toward to stream to the west of the site. The site is currently wooded. There are no streams on the property, but a stream does traverse near the northwest corner of





RZ-21-003

the property such that the stream buffer does cross over the property. The proposed development will not encroach into the buffer. Rather, the trees that currently exist in the buffer will remain. There are also no known archeological or historic sites on the property, see Environmental Site Analysis in the application materials.

#### **Rezoning Request**

The applicant is requesting to rezone the subject property RSM for the development for a 65-unit fee simple townhome community, a less intensive use than that of approved use for a shopping center. The site plan indicates two points of access, one on Thompson Mill Road and another on Panola Road. The revised site plan submitted on August 27, 2021 is very similar to the one presented at the August 3, 2021 Planning Commission Meeting, and shows the same basic layout, 11 units were removed in total from the inter ring of development and the 2 blocks of units flanking the SE entrance to the development.

#### **Conceptual Site Plan**





RZ-21-003

Elevations (see attached application materials for full set of elevations.



FRONT ENTRY RENDERING





RZ-21-003

#### **Public Participation**

The applicant did submit a public participation plan, and held multiple community meetings with the Panola Mills, Glencroft, Havenwood and Woodgrove communities via Zoom prior to August 3. These meetings did lead to scaling back of the density of original proposal for the development, see attached application materials. Following the August 3 deferral by the Planning Commission, the applicant has made plans for another public meeting on September 1, which is to be held after the preparation of this staff report. Documentation of that meeting will be posted separately and later joined to the report.

#### **Traffic Analysis**

Staff has received many emails voicing concerns over the potential impact of the development, particularly concerning increased traffic congestion and safety. A trip generation report, dated 6/8/2021 and prepared by Lumin8 Transportation Technologies indicates that the traffic impact to the area for residential use would be half that if developed as currently approved for retail development. The applicant did not prepare a traffic study as requested by the Planning Commission, but as stated earlier did scale down the proposed density of the development, which would reduce any potential traffic impacts.

#### **STANDARDS OF REZONING REVIEW**

Section 7.3.4 of the Stonecrest Zoning Ordinance list eight factors to be considered in a technical review of a zoning case completed by the Planning and Zoning Department and Planning Commission. Each element is listed with staff analysis.

#### A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The subject property is located within the Suburban character area of the Stonecrest 2038 Comprehensive Plan, as described on page 128 of the Comp Plan.

"The intent of the Suburban Neighborhood character area is to recognize those areas of the city that have developed in traditional suburban land use patterns while encouraging new development to have increased connectivity and accessibility. These areas include those developed (built out) and those under development pressures. Those areas are characterized by low pedestrian orientation, limited transit access, scattered civic buildings and curvilinear street patterns. The proposed density for areas of this type is up to 8 dwelling units per acre."

The residential requested density is within the policy guidelines of Comp Plan.



RZ-21-003

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

As described before, the subject property is surrounded by residential uses, and proposed townhome development is more suitable to the residential character of the area than currently permitted retail development, see previous zoning map.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The property is currently zoned R-100 and NS, and does have reasonable economic use as currently zoned. The requested use of the property is less intensive than that as currently zoned.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning proposal is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. Staff believes the suggested zoning for a townhome development would complement the area better than the currently allowed use of a shopping center.

E. Whether there are other existing or changing conditions affecting the use and development of the property, which gives supporting grounds for either approval or disapproval of the zoning proposal.

There are no changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

There are currently no historic buildings, sites, districts, or archaeological resources on the subject property.

G. Whether the zoning proposal will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

According to a trip generation report, dated 6/8/2021 and prepared by Lumin8 Transportation Technologies the traffic impact to the area for residential use would be half that if developed as currently approved for retail development. As also indicated in a memo from the City Engineer dated June 14, planned improvements to Thompson Mill Road for widening from 2 to 4 lanes and for its intersection with Panola Road will help to mitigate the negative impacts of the proposed development and a full traffic study is not required for the site, as it does not meet the 190 units requirement for such a study.

**H.** Whether the zoning proposal adversely impacts the environment or surrounding natural resources. Environmental Site Analysis included in the application indicates no significant environmental impact. The



RZ-21-003

zoning proposal will not adversely impact the environment or surrounding natural resources. Steps are being taken to mitigate any potential stormwater runoff.

#### **STAFF RECOMMENDATION**

The applicant meets all the criteria for approval. Therefore, staff recommends **APPROVAL** of **RZ-21-003** the following condition:

- 1. The future development of the site shall be for a maximum of 65 townhome units, and in general conformity with conceptual plan submitted with this rezoning application amendment prepared by Contineo Group for Apex Land Company and dated 8/27/21.
- 2. The roof line for each building shall be varied.
- 3. Exterior building materials shall comply with the Article 5 standards of the Stonecrest Zoning Ordinance. The front façade of the units shall incorporate multiple textures and materials similar to the elevations submitted to the Stonecrest Planning Department.
- 4. A 20ft undisturbed buffer, along with a 10ft landscape strip, shall be in place along the southern boundary line of the Subject Property.
- 5. Opaque privacy fencing shall be placed along or near the perimeter of the southern boundary line of the property adjacent to the Panola Mills subdivision.
- 6. There shall be a Mandatory Homeowners Association which shall own and maintain the common areas, and enforce the covenants placed on the townhome community.
- 7. The maximum height of the units shall be 2 stories or 35ft in height.
- 8. Prior to the issuance of any land disturbance permit, the Applicant must provide evidence of a legal mechanism under which all land to be held in common and used for greenspace purposes within the development shall be protected in perpetuity. Such legal mechanism shall include a declaration of restrictive covenants and the formation of a homeowner association, which assure in perpetuity each of the following mandatory requirements:
  - a. That all land held in open space will remain undivided and shall not be subdivided or removed from joint access or benefit in perpetuity;
  - b. That all subsequent property owners in the development will be placed on notice of this development restriction through the deed records filed with the Superior Court of DeKalb County;
  - c. That all land held as greenspace will be properly maintained and that no liability or maintenance responsibilities for the land held as greenspace shall accrue to the City of Stonecrest (the "City");
  - d. That a legal entity exists for notice of deficiencies in maintenance of the land held as greenspace, correction of these deficiencies, and assessment of liens against the properties for the cost of the correction of these deficiencies by a third party or the City;
  - e. That the legal mechanism will become effective and enforceable prior to or at the time of recording the final plat and the sale of any individual properties within the Subject Property; and
  - f. That all requirements of the legal mechanism used to comply with the regulations of this condition will be specified on the final plat to be recorded with the Clerk of Superior Court of DeKalb County.
  - g. Equal access and right of use to all greenspace by all homeowners;
  - h. Mandatory and automatic membership in the homeowners' association for all homeowners and their successors;
  - i. A fair and uniform method of assessment and collection/payment for dues, maintenance and related costs;



RZ-21-003

- j. Homeowners' association lien authority to ensure the collection of dues from all members;
- k. Perpetual and continued maintenance and liability by the homeowners' association of land held as greenspace; and
- 1. Filing of all required covenants, declarations, and restrictions with the Clerk of the Superior Court of DeKalb County.
- m. The recorded covenants shall contain a 15% rental restriction, which rental restriction shall be enforced solely by the Homeowner's Association to the extent permitted by law, with an exception for active military personal that are required to relocate. THE CITY WILL VERIFY THAT THE 15% RENTAL RESTRICTION IS IN THE DECLARATION OF RESTRICTIVE COVENANTS RECORDED SIMULTANEOUSLY WITH THE FINAL PLAT FOR THE COMMUNITY, HOWEVER, THE CITY HAS NO ABILITY TO ENFORCE THE RENTAL RESTRICTION AND DOES NOT EXPRESS ANY OPINION AS TO THE ENFORCEABILITY OF RENTAL RESTRICTIONS IN RESIDENTIAL COMMUNITIES.
- 9. Each unit shall have either a 1 or 2 car garage with each unit having a pad in front for two cars. Additionally, the development shall provide a minimum of 29 guest parking spaces.
- 10. The access on Panola Road shall be a right in-right out only, and a deceleration lane shall be installed.
- 11. A 5ft sidewalk and minimum 6ft landscape strip shall be installed along the property frontage on Thompson Mill Road and Panola Road. Additionally, the sidewalk on Panola Road shall connect offsite into the existing sidewalk in front of the Panola Mill Subdivision.
- 12. The development shall provide a minimum of 20% enhanced open space.

#### Attachments:

- 1. Rezoning applicant amendment submitted on August 27, 2021, including updated statement of intent.
- 2. Original rezoning application dated June 2, 2021.
- 3. Technical Memorandum prepared by Lumin 8 comparing the potential traffic impacts of what is allowed now under the current zoning to what it could be under the original 76-unit townhome proposal.
- 4. Memorandum from City Engineer concerning traffic impacts dated June 14, 2021
- 5. RZ-21-003 Public Participation Plan
- 6. Zoning Agreement between Panola Mills HOA and the property owners of subject property, which includes the conditions of zoning placed on the property by DeKalb County in 2008 (Z-08-15000)

## **Attachment 1:**

RZ-21-003 Application Amendment **VSfW** August 27**l** \$" \$#**ž** 



August 27, 2021

VIA: Email {jsummerbell@stonecrestga.gov}

CLIENT/MATTER REF: Apex Land Company, LLC., 3177 Panola Road & 5207 Thompson Mill Road, Stonecrest, GA

Attn: Jim Summerbell, AICP Planning and Zoning Director City of Stonecrest Planning and Zoning Division 3120 Stonecrest Boulevard, Suite 190 Stonecrest, GA 30038

Mr. Summerbell,

We hereby submit this amended Site Plan and amended Statement of Intent in reference to the above-mentioned application, located on Panola Road and Thompson Mill Road, Stonecrest, GA. Please find the latest documents, attached. Thank you.

Best,

Dani Blumenthal

Danielle Blumenthal Urban Planner Email: dlb@battlelawpc.com

# AMENDED AND RESTATED STATEMENT OF INTENT

And
Other Material Required by the City of Stonecrest, Georgia Zoning Ordinance
For

A Rezoning from NS and R-100 to RSM pursuant to the City of Stonecrest Zoning Ordinance

Of

Apex Land Company, LLC. c/o Battle Law, P.C.

For

+/- 9.56 acres of Land being all of Parcel Nos. 16 022 01 245 and 16 022 01 023 Being in the 3<sup>rd</sup> District, City of Stonecrest

Submitted for Applicant by:

Michèle L, Battle Battle Law, P.C. 3562 Habersham at Northlake Building J, Suite 100 Tucker, GA 30084

#### I. STATEMENT OF INTENT

Apex Land Company, LLC. (the "Applicant") is seeking a rezoning for property located at the corner of Panola Road and Thompson Mill Road. The property is comprised of addresses 3177 Panola Road and 5207 Thompson Mill Road, bearing the parcel numbers 16 022 01 245 and 16 022 01 023, (the "Subject Property"). The Subject Property is currently zoned R-100 and NS with a land use designation of Suburban. The Applicant is seeking a rezoning to rezone the Subject Property to RSM for the development of a sixty-five (65) unit fee simple townhome community.

In addition to the above and the following the Applicant would like to point out that the Subject Property, as it lies today, is slated for development as a 25,000 square-foot shopping center. The NS zoning district, as well as the zoning conditions attached to the property, allow for the owner of this land to construct a shopping center in what is clearly a residential corridor. It is the contention of the Applicant that, in addition to the Rezoning Application Criteria below, the City Council take into consideration this fact. That intense of a use in this residential area would be highly out of place. This zoning proposal is much more in line with the abutting and nearby uses already in place and would improve upon them by creating a diversity of product and a transitional buffer between the apartments to the North and the single-family homes to the South and West.

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and the Rezoning Application Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

# III. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT'S CONSTITUTIONAL RIGHTS

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of

Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests. A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in

violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia. A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal to allow the special land use permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

#### V. CONCLUSION

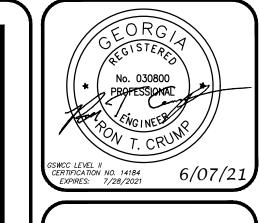
For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 27th day of August 2021.

Respectfully submitted,

Michèle L. Battle, Esq.







SITE LEGEND

VICINITY MAP

UNIT COUNT

SITE DATA			
LOCAL JURISDICTION	CITY OF STONECREST		
PRIMARY PARCEL ID	1602201023, 1602201002		
ZONING DESIGNATION	R-100/NS		
PROPOSED ZONING	RSM		
TOTAL PROPERTY ACREAGE	±9.59 ACRES		
TOTAL DISTURBED ACREAGE	TBD		
PROPOSED USE	TOWNHOMES		
NUMBER OF UNITS	65		
	_		
MAXIMUM HEIGHT	3 STORIES OR 45'		
LOT COVERAGE	75%		
FRONT SETBACK	0' + ROW + STREETSCAPE		
SIDE SETBACK	O' MIN. WITH 10' BETWEN BLDGS		
REAR SETBACK	20'		
OPEN SPACE PROVIDED	4.87 Acres (50.7% OF TOTAL)		
STREETSCAPE(FRONTAGE ROAD)	6' LANDSCAPE STRIP +5' SIDEWALK		

20' FROM RSM ZONING

DENSITY BONUS: (DWELLING UNITS PER ACRE (DU/ACRE))

NEIGHBORHOOD CHARACTER AREA

PUBLIC IMPROVEMENTS (EXTENDED SIDEWALK) ADDITIONAL ENHANCED OPEN SPACE (20%)

TRANSITIONAL BUFFER

MULTIPLY THE BASE X % = ADDITIONAL UNITS ELIGIBLE

STEP 1: CALCULATE DENSITY GAINED BY BONUS TYPE:

BASE DENSITY: 4 % BONUS: 50%

ENHANCED OPEN SPACE (20%)

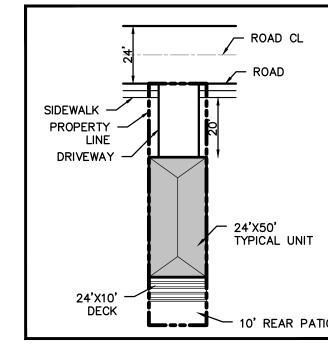
BASE X  $50\% = 4 \times 50\% = 2$ STEP 2: ADD BONUS DENSITY TO BASE DENSITY

BASE + CUMULATIVE BONUS = TOTAL DENSITY ALLOWED

USE DENSITY FOR RSM = 6.80 DU/ACRE

STEP 3: PROPOSED DENSITY

TOTAL UNITS PROPOSED / TOTAL AREA = PROPOSED UNITS PER ACRE



TYPICAL UNIT DETAIL NTS

21-120 08/27/2 CONCEPT PLAN 9

JOB NO:







CHECK: JOB NO: 21-120 08/27/2

> CONCEPT PLAN 9

SIDEWALK -PROPERTY -LINE DRIVEWAY -- 24'X50' TYPICAL UNIT 24'X10' -DECK

UNIT COUNT

CITY OF STONECREST 1602201023, 1602201002

R-100/NS

±9.59 ACRES

TOWNHOMES

3 STORIES OR 45'

0' + ROW + STREETSCAPE

O' MIN. WITH 10' BETWEN BLDGS

5.32 Acres (55.5% OF TOTAL)

6' LANDSCAPE STRIP +5' SIDEWALK

20' FROM RSM ZONING

SITE DATA

NEIGHBORHOOD CHARACTER AREA

PUBLIC IMPROVEMENTS (EXTENDED SIDEWALK)

MULTIPLY THE BASE X % = ADDITIONAL UNITS ELIGIBLE

— ROAD CL

ADDITIONAL ENHANCED OPEN SPACE (20%)

ENHANCED OPEN SPACE (20%)

BASE X  $50\% = 4 \times 50\% = 2$ 

BASE DENSITY: 4 % BONUS: 50%

TYPICAL UNIT DETAIL NTS

# Attachment §

#### **STATEMENT OF INTENT**

And

Other Material Required by the City of Stonecrest, Georgia Zoning Ordinance For

A Rezoning from NS and R-100 to RSM pursuant to the City of Stonecrest Zoning Ordinance

Of

Apex Land Company, LLC., For

+/-9.56 acres of Land Being all of

Parcel Nos. 16 022 01 245 and 16 022 01 023 Being in 3rd District, City of Stonecrest

Submitted for Applicant by:

Michèle L. Battle
Battle Law, P.C.
One West Court Square, Suite
750 Decatur, Georgia 30030
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

#### I. STATEMENT OF INTENT

Apex Land Company, LLC. (the "Applicant") is seeking a rezoning for property located at the corner of Panola Road and Thompson Mill Road. The property is comprised of addresses 3177 Panola Road and 5207 Thompson Mill Road, bearing the parcel numbers 16 022 01 245 and 16 022 01 023, (the "Subject Property"). The Subject Property is currently zoned R-100 and NS with a land use designation of Suburban. The Applicant is seeking a rezoning to rezone the Subject Property to RSM for the development of a seventy-six (76) unit fee simple townhome community.

In addition to the above and the following the Applicant would like to point out that the Subject Property, as it lies today, is slated for development as a 25,000 square-foot shopping center. The NS zoning district, as well as the zoning conditions attached to the property, allow for the owner of this land to construct a shopping center in what is clearly a residential corridor. It is the contention of the Applicant that, in addition to the Rezoning Application Criteria below, the City Council take into consideration this fact. That intense of a use in this residential area would be highly out of place. This zoning proposal is much more in line with the abutting and nearby uses already in place and would improve upon them by creating a diversity of product and a transitional buffer between the apartments to the North and the single-family homes to the South and West.

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and the Rezoning Application Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials

#### II. REZONING APPLICATION CRITERIA

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;

The zoning proposal is in conformity with the policy and intent of the comprehensive plan. While the rezoning alone would not conform to the comprehensive plan, the combination of the rezoning and land use amendment does conform with the plan. Granting both will change the future land use from Suburban Neighborhood to Urban Neighborhood. This change will allow for the rezoning proposal from NS and R-100 to M-1 in full satisfaction of the comprehensive plan.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;

The zoning proposal will permit a use that is suitable in view of the use and development

of adjacent and nearby properties. Currently, taking into consideration the future land use, zoning, and existing conditions on the Subject Property, it is slated to be developed as a shopping center. However, the property is almost exclusively surrounded by residential uses. The zoning proposal will allow the development of a residential use that will bring much less intensity to the residential developments that surround the Subject Property. Therefore, the zoning proposal will permit use that is suitable in view of the use and development of adjacent and nearby properties.

C. Whether the property to be be affected by the zoning proposal has a reasonable economic use as currently zoned;

The Subject Property as currently zoned has an economic use, albeit an unreasonable one given the surrounding area. The Subject Property is currently laid out to be developed as a shopping center. The zoning, future land use, and current conditions were put in place for the purpose of developing a shopping center. So, while the Subject Property could be used for this economic end, putting a shopping center on this property would be an unreasonable burden on the surrounding residences. The shopping center would be built directly in the middle of various residential neighborhoods and would generate traffic late into the evening. The zoning proposal would allow for a townhome community to be built here instead, which would generate much less traffic than a shopping center.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The zoning proposal will be much more in line than what the Subject Property is currently laid out for. The proposed townhome community will serve as another residential development to serve the area's housing market. One detail to point out is that the ingress/egress plan is designed to maximize access to the nearby highway, while simultaneously minimizing the amount of traffic that would be traveling past neighboring communities. This is achieved by placing an exit at the Northern side of the Subject Property to allow quick access to the light, and thereby the highway. The ingress/egress on the Southeastern portion of the property will be a right-in/right-out only. This way, residences returning to their home can turn right into their community without having to cross the ingress/egress of the neighboring community to the South.

E. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;

The Applicant is not aware of any existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and

The zoning proposal will not adversely affect historic buildings, sites, district, or archaeological resources.

G. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

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A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and

owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

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United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

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#### V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 8th day of June, 2021.

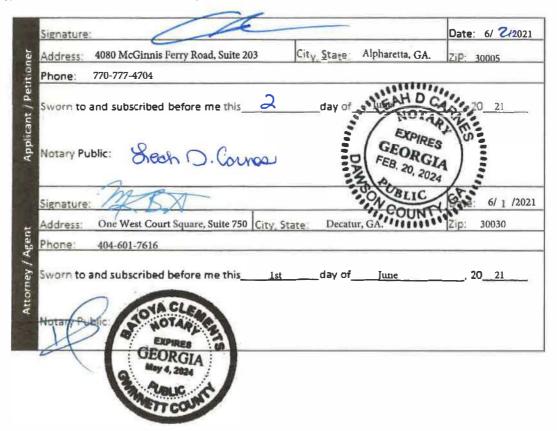
Respectfully submitted,

Michèle L. Battle, Esq. Attorney For Applicant



## **Applicant/Petitioner Notarized Certification**

Petitioner states under oath that: [1] he/she is the executor or Attorney-In-Fact under a Power-of- Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").





to be necessary, I understand that I am responsible for Zoning Ordinance.  Applicant's Name: Apex Land Company, L			
Applicant's Signature:	7	Da	te: 6/ <b>2</b> /2021
Sworn to and subscribed before me this	Day of Jun	ne	20 21
Notary Public: Lenh D. Carnes			HOTAN
Signature: Sech O. Corner			GEORGIA OF
My Commission Expires:			FEB. 20, 2024
☐ Application Fee ☐ Sign Fee ☐ Legal	Fee		N.CONI.
Fee: \$	Payment: Cash Che	eck 🔲	Date:
Approved Approved with Conditions Denie	ed	Date:	

<sup>\*</sup>One sign is required per street frontage and/or every 500 feet of street frontage



## **Campaign Disclosure Statement**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

Yes	□ No	
	Signature:	
Applicant Owner	Address: 4080 McGinnis Ferry Road, Suite 203, Alpharetta, GA. 30005	
id Y	Date: 6/ 2/2021	

If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount
-				
			-	
				1



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Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

☐ Yes    No	
Signature: ABM	
Address: One West Court Square, Suite 750, Decatur, GA. 30030	
Address: One West Court Square, Suite 750, Decatur, GA. 30030  Date: 6/ 1 /2021	

If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount



# **Rezoning Application**

	Owner's Name: Zacharia Majed; Mohammed Al Mulki Rania; Amir Haffer				
	Owner's Address: 1275 VINTAGE CLUB DR. DULUTH GA 30097				
uc	Fax: Ema	il:			
Informatior	Property Address: 3177 Panola Road and 5207 Thompson	Mill Road	Parcel Size:		
Parcel ID: 16 022 01 245; 16 022 01 023					
_	Current Zoning Classification: NS and R-100				
	Requested Zoning Classification: RSM				
	Name: Apex Land Company, LLC.				
	Address: 4080 McGinnis Ferry Road Suite 203, Alpharett	a, GA. 30005			
_	Phone: 770-7774704 Fax:				
Intormation	Cell: 404-732-4136 Email: aaron	rissler@icloud.o	com		
rme	Is this development and/or request seeking any incentives or tax abate	ement through the	City of Stonecrest or any	entity	
Into	that can grant such waivers, incentives, and/or abatements?	П	Yes 🗹 No		
Property					
ope	1. Will the zoning proposal permit a use that is suitable in view of the properties?	ise and developme	ent of adjacent and nearby	/	
☲	Yes.				
	2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?				
	Yes.				
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?				
	No.				
alre					
Questionnaire	4. Are other existing or changing conditions affecting the existing use of	or usability of the o	Nevelonment of the proper	rtv	
esti	which give supporting grounds for either approval or disapproval of the	-		cy	
3	None that the Applicant are aware of.				
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?				
	No.				
	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets,				
	transportation facilities, utilities or schools?				



SHEET C100	CONCEPT PLAN 6

JOE 21		# DATE -	REVISIONS
B NO: -120	RAWN: EGS		
DA1	CHEC		
ΓΕ: 7/21	Ā CK:	of The Contineo Group Re for the project intended v	esign represented herein are the exclusive property production or any use of these drawings other than without the express written consent of The Contineo unauthorized use will be subject to legal action.

# THOMPSON MILL & PANOLA ROAD

ISSUED FOR: CONCEPT CITY OF STONECREST LOCATION: 5207 & 5165 THOMPSON MILL RD LITHONIA, GA APEX LAND COMPANY



PROPERTY BOUNDARY SHEET \$100

# DATE REVISIONS

# DATE REVISIONS

# DATE

#

# THOMPSON MILL & PANOLA ROAD

ISSUED FOR: CONCEPT

JURSIDICTION: CITY OF STONECREST

LOCATION: 5207 & 5165 THOMPSON MILL RD
LITHONIA, GA

APEX LAND COMPANY





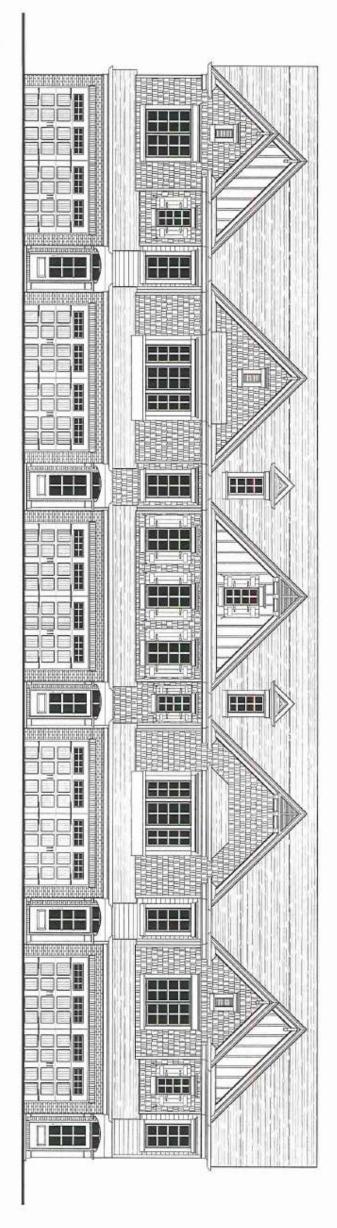
# **Property Owner(s) Notarized Certification**

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filling of the application for zoning amendment, and authorization of an applicant or agent to act on their behalf in the filling of the application including all subsequent application amendments.

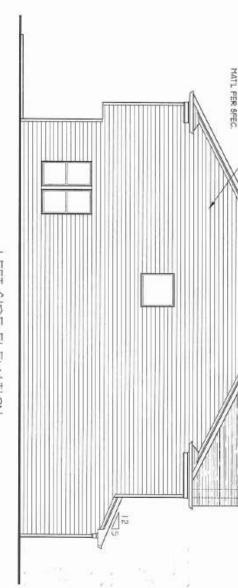
	Signature: MS Zokara M	Zacl	naria Majed	Date: 6/ 7 /2021
	Address: 1275 Vintage Club Drive	City, State:	Duluth, GA.	Zip: 30097
	Phone: 618-957-0	7293		
wner ble)	Sworn to and subscribed before me this_	7	day of June	, <b>20</b> 21
Property Gwine (iff Applicable)	Notary Public: Sech O. Corre		EXPIRES ORGIA	S. A. A.
	Signature a Mullin	N	lohammed Alfaulki Ranja	
P	Address: 1275 Vintage Club Drive	City, State:	Duluth, SON CO	Zip: 30097
<b>1</b>	Phone: 404-931-28	325		
Property Owner (if Applicable)	Sworn to and subscribed before me this_	$\neg$	_day ofJune	<b>20</b> 21
Propert (If App	Notary Public: Reah D. Como		EXPIRES CIA	A A A A A A A A A A A A A A A A A A A
	Signaturations Hoffen		Amy Hafferpes. 20, 2024	61 712021
	,	City, State:	Duludi, ASON CO	<b>Zip</b> : 30097
Vaner (ale)	Phone: 404-252-79	75.	.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
Property Owner (if Applicable)	Sworn to and subscribed before me this_	7	day of June	<b>20</b> 21
2 3	Notary Public: Seoh (). Cour	<b>∕</b> @	S SOTA	RNES
			•   ~	IU-T

FRONT ENTRY RENDERING





Front Elevation - 5 Units Building



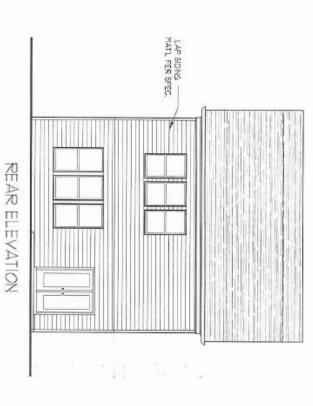
LEFT SIDE ELEVATION

		I
		a s

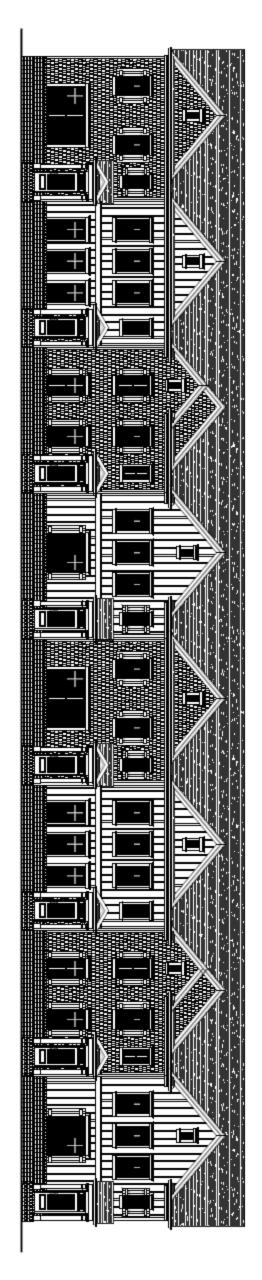
MAT'L PER SPEC.

RIGHT SIDE ELEVATION

	EXTERIOR MATERIALS:	
BUILDING ELEMENT	MATERIAL	TYPE
FACADE	BNICK	QUEEN SIZE
	BOARD & BATTEN	FIBER CEMENT PANEL SIDING III/
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	SIDING	CONCRETE LAP SIDING
	SHAKE	HARDIE STRAIGHT LAY
FRONT OFFSET	BRICK	QUEEN SIZE
SIDES 4 REAR	SIDING	CONCRETE LAP SIDING
ROOF	ARCHITECURAL SHNGLES	LANDMARK PRO
SHED DORMER/ ACCENT ROOF	ARCHITECURAL SHNGLES	LANDMARK FRO
FRONT PORCH ROOF	ARCHITECURAL SHNGLES	LANDMARK PRO
PORCH FLOOR	CONCRETE	MONO
FRONT WINDOWS	TANIA	SOL W/ GRILL 4 OVER 4, WHITE
SIDE 4 REAR WINDOWS	TINIA	LOVER LUHITE
FRONT DOOR	MOCD	3/0X6/8 6-LITE/I PANEL W/ 10" TRANSOM



Sides & Rear Elevations

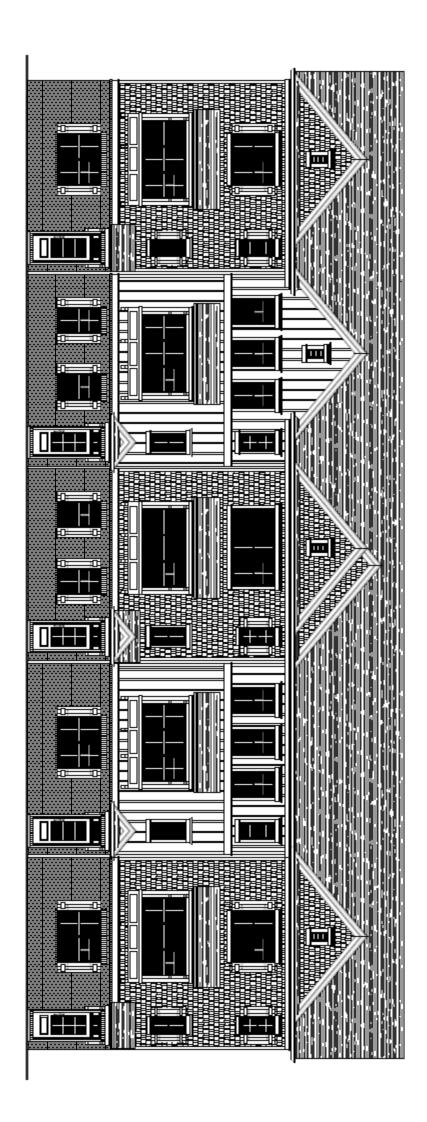








ELEVATION A ELEVATION B ELEVATION C ELEVATION D





ELEVATION A ELEVATION B ELEVATION C ELEVATION D

### **Attachment 3:**

Technical Memorandum prepared by Lumin 8 comparing the potential traffic impacts of what is allowed now under the current zoning to what it could be under the original 76-unit townhome proposal.



### TECHNICAL MEMORANDUM

55 Millard Farmer Ind. Blvd. Newnan, GA 30263 678.423.0050 www.Lumin8.com

**Subject:** Land Use Comparison

Location: Stonecrest, GA

Date: 06/08/2021

To: Aaron Rissler, Apex Land Company

From: Speedy Boutwell, PE, PTOE

## **INTRODUCTION**

This technical memorandum includes conducting a trip generation comparison between a residential development and a retail development for the southwest corner of the Thompson Mill Road and Panola Road intersection in Stonecrest, GA. The proposed location is shown in Figure 1.



Figure 1: PROPOSED LOCATION



## **DEVELOPMENT TYPES**

The residential development proposes a total of 76 townhomes. According to the site plan the residential development would have two points of access. The site plan for the residential development is shown below in Figure 2.



Figure 2: RESIDENTIAL PLAN



The retail development proposes two separate buildings with a gross total of 21,800 SF of retail space. According to the site plan the retail development would have three points of access. The site plan for the retail development is shown below in Figure 3.

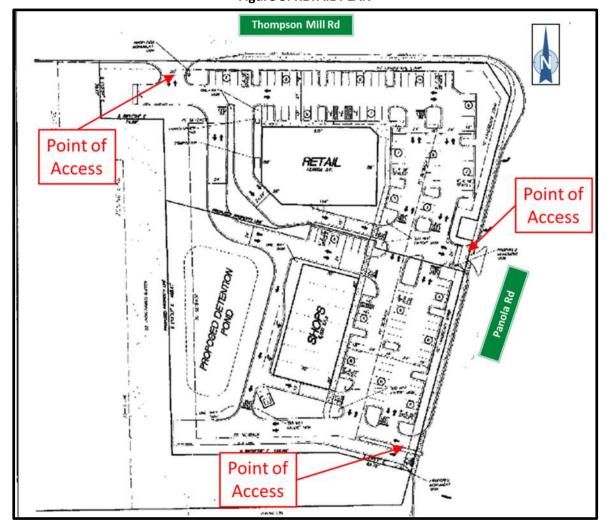


Figure 3: RETAIL PLAN



### **PROJECTED CONDITIONS**

### TRIP GENERATION

The trips generated by the development were estimated using trip generation rates found in ITE's publication *Trip Generation*, 10<sup>th</sup> Edition. *TripGen 10* software from Trafficware was used to facilitate the calculation. The trip generation publication contains multiple associated trip rates for the listed land use. The rate that resulted in the larger trip generation was used for this study. The weekday AM and PM Peak Hour trip generation estimates correspond to the peak hour of the adjacent street.

### **RESIDENTIAL**

The trip generation for the residential development can be seen below in Table 1. ITE Code 220 (Multifamily (Low-Rise)) was used for the proposed development, as this code specifically calls outs the 'townhouse' use. The trip generation data is attached.

**Table 1: TRIP GENERATION - RESIDENTIAL** 

ITE	LAND USE	SIZE	DAILY	AM	PEAK HO	DUR	PM	PEAK HO	DUR
CODE	DESCRIPTION	SIZE	TRIPS	ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
220	Townhouses	76 units	556	9	28	37	29	17	46

### **RETAIL**

The trip generation for the retail development can be seen below in Table 2. The ITE Codes used for the retail development were assumed based on the site plan in Figure 3. The trip generation data is attached.

**Table 2: TRIP GENERATION – RETAIL** 

ITE			DAILY	AM	PEAK HC	OUR	PM	PEAK HO	DUR
CODE	LAND USE	SIZE	2-WAY TRIPS	ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
814	Shops	9.8 KSF	622	18	13	31	35	32	67
815	Retail	12 KSF	638	10	4	14	29	29	58
	UNADJU	STED VOLUME	1260	28	17	45	64	61	125
		PASS-BY TRIPS	-240	0	0	0	-16	-16	-32
	ADJUSTED VOLUME (TOTA	AL NEW TRIPS)	1020	28	17	45	48	45	93



### CONCLUSION

Based on the findings of this technical memorandum, the conclusions are as follows:

- A trip generation was completed for a residential development with 76 townhomes:
  - O The development is estimated to produce 556 daily trips to the adjacent streets (278 entering, 278 exiting).
  - The AM peak hour produces 37 total trips (9 entering, 28 exiting).
  - The PM peak hour produces 46 total trips (29 entering, 17 exiting).
- A trip generation was completed for a retail development with 21,800 SF of space:
  - The development is estimated to produce 1,260 total daily trips including pass-by trips (630 entering, 630 exiting).
  - The AM peak hour produces 45 total trips (28 entering, 17 exiting).
  - The PM peak hour produces 93 total trips (48 entering, 45 exiting).
- Based on the results of the Trip Generations, it is expected the retail development would generate twice the number of daily trips than the residential development.

### **Trip Generation Summary**

Alternative: Alternative 1

Phase: Open Date: 6/8/2021

Project: Residential Analysis Date: 6/8/2021

	W	/eekday Av	erage Dai	ly Trips	,	Weekday A Adjacent	M Peak H Street Tra		\	Neekday F Adjacent	PM Peak H Street Tra	
ITE Land Use	*	Enter	Exit	Total	*	Enter	Exit	Total	*	Enter	Exit	Total
220 LOW-RISE 1		278	278	556		9	28	37		29	17	46
76 Dwelling Units												
Unadjusted Volume		278	278	556		9	28	37		29	17	46
Internal Capture Trips		0	0	0		0	0	0		0	0	0
Pass-By Trips		0	0	0		0	0	0		0	0	0
Volume Added to Adjacent Streets		278	278	556		9	28	37		29	17	46

Total Weekday Average Daily Trips Internal Capture = 0 Percent

Total Weekday AM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

Total Weekday PM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

<sup>\* -</sup> Custom rate used for selected time period.

### **Trip Generation Summary**

Alternative: Alternative 1

Phase:

Open Date: 6/8/2021

Project: Retail

Analysis Date: 6/8/2021

	W	/eekday Av	erage Dai	ly Trips	\	Neekday A Adjacent	M Peak H Street Tra		١	Neekday F Adjacent	PM Peak H Street Tra	
ITE Land Use	*	Enter	Exit	Total	*	Enter	Exit	Total	*	Enter	Exit	Total
814 STOREVARIETY 2		311	311	622		18	13	31		35	32	67
9.8 1000 Sq. Ft. GFA 815 STOREDISC 1		319	318	638		10	4	14		29	29	58
12 1000 Sq. Ft. GFA		319	310	030		10	4	14		29	29	36
Jnadjusted Volume		630	630	1260		28	17	45		64	61	125
nternal Capture Trips		0	0	0		0	0	0		0	0	0
Pass-By Trips		120	120	240		0	0	0		16	16	32
olume Added to Adjacent Streets		510	510	1020		28	17	45		48	45	93

Total Weekday Average Daily Trips Internal Capture = 0 Percent

Total Weekday AM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

Total Weekday PM Peak Hour of Adjacent Street Traffic Internal Capture = 0 Percent

<sup>\* -</sup> Custom rate used for selected time period.

## **Attachment 4:**

Memorandum from City Engineer concerning traffic impacts dated June 14, 2021



### Memorandum

Ten 10th Street, NW, Suite 1400 Atlanta, Georgia 30309 United States T +1.404.978.7600 F +1.404.978.7660 www.jacobs.com

Stonecrest, Georgia

Subject Proposed Townhome

**Development, Thompson Mill** 

Road at Panola Road

Attention Jim Summerbell, Planning and

**Zoning Director** 

From Tom Udell, City Engineer

**Date** June 14, 2021

A townhome development has been proposed at the southwest corner of Thompson Mill Road at Panola Road. The proposal will construct 78 units. This is below the threshold of 190 units to trigger a traffic study. The current zoning is for a commercial development which will produce more traffic than the proposed residential. The city's transportation master plan identifies Thompson Mill Road for widening from 2 to 4 lanes, as well as intersection improvements at Panola Road.

**Project Name** 

## **Attachment 5:**

RZ-21-003 Public Participation Plan

# PUBLIC PARTICIPATION PLAN FORM D

Appli	icant: Apex Land Company, LLC.	
1.	The following individuals (property owners within a quanthomeowner's associations, political jurisdictions, other public agaccordance with the requirements of Article 28.4.7 of the Ordinance:	encies, etc., will be notified in
	Everybody living in the following communities: Havenwood, and Woodgrove communities.	Panola Mills, Glencroft
2.	The individuals and others listed in 1. above will be notified of permit using the following method(s): (e.g., letters, meeting not etc.)	
	Letters and meeting notices to set up meetings Zoom	that will be held via
3.	Individuals and others listed in 1. above will be allowed to particle (At least one meeting at a convenient time and location is require	1
	We will hold Zoom meetings with the commun	nity members.

## Havenwood Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status
Donna	Priest-Brown	dpriestbrown@bellsouth.net	2021-06-01 17:55:57	approved
Tracy	Smith	msmuscular@gmail.com	2021-06-01 18:00:56	approved
Percy	Butler	percydecatur@aol.com	2021-05-31 20:46:48	approved
Joel	Thibodeaux	jbthibodeaux@gmail.com	2021-06-01 18:05:35	approved
Cecile	Bryant	cecilebryant1@gmail.com	2021-06-01 18:12:05	approved
Michele	Battle	battlelawpc@gmail.com	2021-06-01 17:56:54	approved
LaShawnda	Walker	lashawnda.walker9@gmail.com	2021-06-01 18:10:13	approved
Sharon	McPherson	sharon mcpherson@yahoo.com	2021-06-01 13:38:23	approved
Harold	Smith	famu4us@bellsouth.net	2021-05-31 19:09:41	approved
Gabby Miles		gabbymiles706@gmail.com	2021-06-01 18:10:21	approved
Diane Robinson		dianemrobinson49@gmail.com	2021-06-01 16:39:52	approved
Franklin Eaves		franklin2230038@yahoo.com	2021-06-01 18:30:55	approved
Danielle	Blumenthal	Dlb@battlelawpc.com	2021-06-01 17:57:44	approved
faye Coffield		faye@fayecoffieldinvestigations.com	2021-06-01 18:15:51	approved
Sandra	Willis	handsofjazz27@gmail.com	2021-05-31 13:55:23	approved
Gabby	Miles	edwina328@gmail.com	2021-06-01 17:50:22	approved
		mlb@battlelawpc.com	2021-06-01 17:56:56	approved
Erma	Brown	erma324@gmail.com	2021-06-01 18:20:37	approved
Jazzmin Randall Cobble		jazzmin.cobble@gmail.com	2021-06-01 18:07:34	approved
Aaron	Rissler	aaronrissler@icloud.com	2021-06-01 18:05:43	approved
Carl	Manson	crlmanson@aol.com	2021-05-28 16:51:54	approved
Clara	DeLay	lithonialawyer@gmail.com	2021-06-01 17:54:05	approved
Doris	Johnson	dorisej@bellsouth.net	2021-05-27 23:56:39	approved
Bernard	Knight	bknightattorney@att.net	2021-06-01 18:12:54	approved
T.PG.		togmO3@gmail.com	2021-06-01 18:04:45	approved
Aristo 5		Isharpefranklin@gmail.com	2021-05-27 18:17:06	approved
Staci Hopkins		shopkins1975@gmail.com	2021-06-01 17:54:47	approved
Joysjazz		1joysjazz@gmail.com	2021-05-30 13:09:25	approved
Pat		pwil789@comcast.net	2021-06-01 05:41:09	approved
Stacey	Thibodeaux	staceythibodeaux@gmail.com	2021-06-01 18:01:11	approved

## Glencroft Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status
Wanda	McKenzie	DMack71@yahoo.com	2021-05-26 18:31:36	approved
Tracy	Smith	msmuscular@gmail.com	2021-06-01 19:13:34	approved
Patsi Turner		turnerg1@comcast.net	2021-06-01 18:49:49	approved
Pat Coffee		coffee48@bellsouth.net	2021-06-01 18:52:30	approved
Jazzmin Randall Cobble		jazzmin.cobble@gmail.com	2021-06-01 18:06:46	approved
Michele	Battle	battlelawpc@gmail.com	2021-06-01 19:09:21	approved
Valorie		valoriemccoy@outlook.com	2021-05-31 22:20:19	approved
Diane Robinson		dianemrobinson49@gmail.com	2021-06-01 19:15:30	approved
Aaron	Rissler	aaronrissler@icloud.com	2021-06-01 18:05:09	approved
		mlb@battlelawpc.com	2021-06-01 19:09:25	approved

## Woodgrove Community Meeting Registration Report

First Name	Last Name	Email	Registration Time	Approval Status
Donna	Priest-Brown	dpriestbrown@bellsouth.net	2021-06-03 18:00:20	approved
Kathy		bollikat@yahoo.com	2021-06-03 18:09:47	approved
Lois Hyde		loiswhyde01@gmail.com	2021-06-03 18:05:03	approved
Samuel Long		lonsam0324@gmail.com	2021-06-02 15:18:24	approved
Michele	Battle	battlelawpc@gmail.com	2021-06-03 18:01:06	approved
LaShawnda	Walker	lashawnda.walker9@gmail.com	2021-06-02 18:12:39	approved
Mickey		starbord2562@gmail.com	2021-06-03 18:12:48	approved
Sharunda	Buchanan	sdb4@cdc.gov	2021-05-28 10:38:09	approved
Jean	Brooks-Eberhardt	jbjean7@gmail.com	2021-06-01 19:44:56	approved
Danielle	Blumenthal	Dlb@battlelawpc.com	2021-06-03 17:55:14	approved
Alisa	Clark	alisaclark@glorypcs.com	2021-05-28 09:02:45	approved
Luther	Tookes	luthertookes@bellsouth.net	2021-06-03 13:43:38	approved
		mlb@battlelawpc.com	2021-06-03 18:01:08	approved
Barbara Senior		seniorbarbara133@gmail.com	2021-06-03 18:23:25	approved
Galaxy S20+ 5G		robert3476@aol.com	2021-05-26 20:14:46	approved
Nijel	Bordenave	nbordenave@yahoo.com	2021-06-03 18:13:53	approved
A Jackson		Arquidalebutler@yahoo.com	2021-05-29 07:39:30	approved
Jazzmin Randall Cobble		jazzmin.cobble@gmail.com	2021-06-01 18:05:12	approved
alecia washington		cityofhopeoutreach@yahoo.com	2021-06-03 16:35:03	approved
R Rasberry		rlrasberry@bellsouth.net	2021-06-03 18:25:43	approved
Shanta Morris		smorris411@outlook.com	2021-06-03 18:38:24	approved
Aaron	Rissler	aaronrissler@icloud.com	2021-06-01 14:30:30	approved
Christine	Character	faithprinting123@gmail.com	2021-06-02 00:20:09	approved
joyce		ja5233@yahoo.com	2021-06-03 18:07:53	approved
Carl	Manson	crlmanson@aol.com	2021-06-03 18:20:36	approved



MICHÈLE L. BATTLE, ESQ. President

May 20, 2021

## RE: A Proposed Rezoning and Comprehensive Land Use Change for 3177 Panola Rd and 5207 Thompson Mill Rd.

Dear Property Owner:

We would like to invite you to join our Zoom Video Meeting on **Tuesday**, **June 3**, **2021**, from 6:00 pm to 7:00pm to discuss a proposed rezoning and land use amendment for the properties located at 3177 Panola Rd. and 5207 Thompson Mill Rd. My client, Apex Land Company, is seeking to develop a townhome project on the property.

Below are the meeting instructions. There are multiple ways for you to join the meeting, including via your computer, tablet, or cell phone, with or without video. If you are unable to make it, but would like to learn more, please contact our office at (404) 601-7616 ext. 7 or email us at <a href="mailto:jtm@battlelawpc.com">jtm@battlelawpc.com</a> and we will send you a summary of the meeting.

You are invited to a Zoom meeting.

When: June 3, 2021 06:00 PM Eastern Time (US and Canada)

Register in advance for this meeting:

https://otago.zoom.us/join

Meeting ID: 864 8203 1456

Passcode: 853279

After registering, you will receive a confirmation email containing information about joining the meeting.

Please contact our offices if you have any questions regarding the meeting.

Sincerely,

Michèle L. Battle
Michèle L. Battle



### **Zoom Step by Step Instructions**

Go to <a href="https://otago.zoom.us/join">https://otago.zoom.us/join</a> and Enter the Meeting ID that you have been provided with in the appropriate field and click "Join" (the meeting ID will be a 9 digit or 10 digit number)

### If joining from a mobile Device

If you are joining from a mobile device (Android smartphone/tablet, Apple iPhone/iPad) then it will simply prompt you to download the Zoom Cloud Meeting app from the App/Play Store.

### If joining from a computer

When entering a Zoom meeting for the first time from a computer you may need to download a small application file. This process is easy to complete on all commonly used browsers. Google Chrome should automatically download the file.

Just before Entering the meeting you will be prompted to enter a display name. This name is simply to identify you in the meeting.

### Join Audio via Computer

You will then be prompted how you wish to join your audio. If you wish to join audio via the telephone, follow the instructions further down, otherwise simply select Join Computer by Audio.

### Join Audio via Telephone

Dial in using (646) 558-8656, after entering the Meeting ID, you will be prompted to enter your Participant ID/Password. Simply enter this number followed by # and the video audio will then be synchronized.

### **Raising Your Hand**

As the non-speaker if you wish to ask a question or make a point during the meeting it's good protocol to use the "Raise Hand" facility.

If the tool bar is not showing at the bottom of the Zoom window, place your cursor over the Zoom window so it appears and select the "Participants" icon.

A window listing other participants will appear, there is also a "Raise Hand" icon, click the icon to make it known to the Host that you would like to raise your hand.

If you wish to lower your hand, click the "Lower Hand" icon that will have replaced the "Raise Hand" icon.

### **Leave Meeting**

To leave a meeting from Zoom on your desktop, select "End Meeting" then "Leave Meeting."

## **Attachment 6:**

Zoning Agreement between Panola Mills HOA and the property owners of subject property, which includes the conditions of zoning placed on the property by DeKalb County in 2008 (Z-08-15000)



DEED BOOK 21381 Pg 152

Filed and Recorded: 4/16/2009 4:16:41 PM Linda Carter Clerk of Superior Court DeKalb County, Georgia

### Space Above Reserved for Recording Data

After Recording, return to: Michèle L. Battle Smith, Gambrell & Russell, LLP Promenade II, Suite 3100 1230 Peachtree St., N.E. Atlanta, GA 30309

Cross Reference to Owner Deed: Deed Book: 5492 Page: 684

### ZONING AGREEMENT

day of February, 2009, by This Zoning Agreement (the "Agreement") is entered into this \_ and between PANOLA MILLS HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation (the "Association") and M.S. Zakaria, Trustee for M.S. Zakaria M.D., P.C., Employers Profit Sharing Trust; Mohammad Al-Mulki, Trustee for Rania Al-Mulki; Mohammad Al-Mulki, Trustee for Izat Al-Mulki; Mohammad Al-Mulki, Trustee for Dania Al-Mulki and Amin Haffar, (collectively "Owner")

As of the date of execution of this Agreement, the parties listed as the "Owner" have fee simple title to the Zoning Tract and the Residential Tract. This Agreement is made in contemplation of the sale of the Zoning Tract to Cornerstone Development Partners, LLC or another development company, with the Owner retaining the Residential Tract

### WITNESSETH

If the rezoning of the Zoning Tract is approved by the DeKalb County Board of Commissioners, the Association agrees that the Owner will be bound by the following:

WHEREAS, Owner owns approximately 5.190 acres of land (the "Zoning Tract") lying and being in Land Lots 22 and 43 of the 16th District of DeKalb County, Georgia as more particularly described in Exhibit "A" attached hereto labeled Tract 2 and by this reference incorporated herein; and

WHEREAS, Owner owns approximately 4.39 acres of land (the "Residential Tract") lying and being in Land Lot 22 of the 16th District of DeKalb County, Georgia as more particularly described in Exhibit "B" attached hereto labeled Tract 1 and by this reference incorporated herein; and

LIT/1057150.4

WHEREAS, Owner filed with the DeKalb County Planning Department (the "Planning Department") Rezoning Application No. Z-08-15000 (the "Rezoning Application") to rezone the Zoning Tract from R-100 to NS; and

WHEREAS, Owner and the Association desire to enter into this Agreement governing the development of both the Zoning Tract and the Residential Tract (the "Subject Properties").

NOW, THEREFORE, for and in consideration of the agreement of Owner to amend its Rezoning Application (and future applications) as hereinafter provided to incorporate certain conditions and in consideration of the mutual benefits flowing between the parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of said parties. Owner hereby agrees as follows:

- The approval of the Rezoning Application by the DeKalb County 1. Use of Zoning Tract. Board of Commissioners shall be subject to certain conditions of zoning, which are contained in Exhibit "D" attached hereto and by this reference incorporated herein (the "Zoning Conditions"). In addition, the parties have agreed that when the Zoning Tract is developed and the sidewalks along Panola Rd are installed, the owner of record at the time that the Zoning Tract is developed will, at its cost, extend the sidewalks along Panola Road to the entrance of the Association's subdivision. Further, when the Zoning Tract is developed, as part of the landscaping design for its frontage, the owner of record at the time that the Zoning Tract is developed agrees to spend up to \$5000.00 to assist the Association in improving the landscape design at the entrance to their subdivision as shown on Exhibit "C" attached hereto and by this reference incorporated herein (the "Panola Mills Entrance Landscape Plan"). Notwithstanding anything herein to the contrary, the terms and conditions set forth in this paragraph 1 regarding the use of the Zoning Tract, shall terminate automatically and become immediately null and void and of no force and effect if subsequent to the approval of the Rezoning Application the Zoning Tract is rezoned to any residential zoning district under the DeKalb County Zoning Ordinance, or under the zoning ordinance of the then applicable governing authority.
- Use of Residential Tract. Owner has agreed and hereby does agree that the use of the 2. Residential Tract shall be limited to residential dwellings and neither Owner nor any developer of the Residential Tract shall seek to rezone the Residential Tract to any nonresidential zoning classification. The foregoing use restriction does not exclude the use of the Residential Tract for non-residential uses permitted in residential dwellings by Special Land Use Permit, Special Exception or otherwise, under the residential zoning district then applicable to the Residential Tract.
- Covenant Running with the Land. The parties have agreed that the uses of the Subject 3. Properties are central to the entry of this Agreement by the Association. Upon execution of this Agreement and approval of the Rezoning Application, subject to the Zoning Conditions and any other additional conditions approved by the DeKalb County Board of Commissioners, Owner shall record this Agreement as a covenant on its title to the Subject

Properties. This Agreement shall be recorded so as to run with and bind the Subject Properties and any successors, successors-in-title, legal representatives and assigns of Owner and shall run to the benefit of and be enforceable by the Association. This Agreement is deemed a covenant and shall extend for twenty (20) years, and shall renew itself automatically every twenty (20) years, unless within sixty (60) days prior to the expiration of such twenty (20) year term, the Association elects to terminate this Agreement by recording in the DeKalb County, Georgia real property records written notice of the Association's election to terminate the Agreement. Notwithstanding anything herein to the contrary, this entire Agreement shall terminate automatically and become immediately null and void and of no force and effect upon: (i) the denial of the Rezoning Application by the DeKalb County Board of Commissioners, (ii) the voluntary dissolution of the Association, or (iii) twentyfour (24) months after the date that the Association is administratively dissolved by the Georgia Secretary of State's Office.

- Breach. If Owner breaches any of the terms or conditions set forth herein, the Association 4. shall have the right to give Owner written notice of such breach, simultaneously with filing a complaint with the DeKalb County Code Enforcement Department. If Owner fails to cure such breach within thirty (30) days after receipt of such notice, then the Association shall have the right to: (i) enforce the covenants and agreements hereunder by injunction, specific performance or other appropriate proceedings in law or in equity in the Superior Court of DeKalb County, Georgia, or through mediation, to which Owner hereby consents.
- Notices. (a) All notices shall be in writing and shall be deemed to have been properly given 5. (i) when delivered in person, or (ii) one (1) business day, after deposit with Federal Express, Express Mail, or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set forth below:

Contact info for Owner at the time of this Agreements Execution

M.S Zakeria, M.D. 1590 Bethsaida Rd Riverdale Ga. 30296

Mohammad Al-Mulki, M.D 830 Heards Ferry Rd Atlanta, Ga. 30328-4726

With a Copy

to:

Any Owner of Record at time of Notice if different from above

With a Copy

to:

Cornerstone Development Partners

Mark Renier

3625 Cumberland Boulevard

Suite 540

Atlanta, GA 30339

With a copy

Michèle L. Battle, Esq. to:

Land Use Group

Smith, Gambrell & Russell, LLP

1230 Peachtree St., N.E. Promenade II, Suite 3100 Atlanta, GA 30309

Association: Jackie Johnson

5002 Panola Mill Drive Lithonia, GA 30038

Rejection or other refusal by the addressee to accept, or the inability of the courier service to deliver because of a change of address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices to it shall be sent by giving to the other party at least ten (10) days prior notice of the change of address.

(b) In an effort to keep the line of communication open between the Zoning Tract owner, the Association and the surrounding communities, Owner shall notify the Association in writing (the "Change of Developer Notice") of any conveyance of all or any portion of the Zoning Tract to a successor owner and/or developer of the improvements to be developed on the Zoning Tract. The Change of Developer Notice shall include contact information for the new owner/developer, including, name of the new owner or developer, address, telephone number, fax number and e-mail address and the name of the primary contact person for such owner or developer.

#### MISCELLANEOUS. 6.

- a. This Agreement shall be binding on the successors, successors-in-title, legal representatives and assigns of Owner. Time is of the essence. This Agreement shall survive the sale of all or a portion of the Subject Properties.
- b. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute one and the same instrument.

- c. No representations that are not contained herein shall be binding upon the parties. Each signatory hereto is authorized to execute this Agreement.
- d. The introductory paragraphs to this Agreement are incorporated herein by this reference.
- e. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and shall be controlled in all respects by the laws of the State of Georgia. Notwithstanding anything herein, no modification of this Agreement, shall have any force or effect except where agreed in writing, signed by all parties hereto.
- f. Should any part of this Agreement be declared invalid or void by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion or portions hereof, and such remaining portion or portions shall be deemed to be in full force and effect.
- g. The preambles of this Agreement are incorporated into this Agreement and made a part hereof as if fully restated herein in their entirety. A waiver by any of the parties hereto of any breach hereof shall not operate nor be construed as a waiver of any subsequent breach by any party.
- h. As it is the intent of the parties hereto that this Agreement be enforceable, the parties hereto do hereby waive, surrender and forego any defense which might prevent the enforcement of this Agreement as a covenant, including, but not limited to the following: any defense regarding any lack of privity, any issue of standing, or consideration. The parties further acknowledge the ability, if necessary, to enforce this Agreement as a covenant through privity of conscience.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

	OWNER:
Signed, sealed and delivered in	2/-
the presence of:	M-c Thoseers
Law B. Levitte	M.S. Zakaria, Trustee for M.S. Zakaria M.D.,
Witness	P.C., Employers Profit Sharing Trust
neder O Nat	(as to an undivided 50% interest)
My Commission Expires: SEPT. 11, 2010	Manufaction of the Control of the Co
[Notary Seal]	
Signed, sealed and delivered in	
the presence of:	
Sun B. Peritte A 4.	historial alto Truster
Witness	Mohammad Al-Mulki, Trustee for Rania Al-Mulki
Tedan Of Japanes	(as to an fundivided 21% interest)  Truster
Notary Public	Mohammad Al-Mulki, Trustee for Izat Al-Mulki (as
My Commission Expires:	to an undivided 12% interest)
My Commission Expires:	holand all Truston
[Notary Seal]	Mohammad Al-Mulki, Trustee for Dania Al-Mulki (as to
	an undivided 12% interest)
Signed, sealed and delivered in	Λ Λ . ·
the presence of:	1 1 A
Knew B Territo OTARY	his ferred alter, Post
Witness  Witness  CEORGIA  GEORGIA  SEPT. 11, 2010	Amin Haffar, Individually fas to an undivided 5% interest)
Notary Public	
My Commission Expires:	
[Notary Seal]	

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

### ASSOCIATION:

Signed, sealed and delivered in the presence of: Witness	PANOLA MILLS HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation  By: Jackie Johnson, Its President
Notary Public  My Commission Expires: Mac	102010 STATE NA NET STATE OF THE STATE OF TH
[Notary Seal]	AURICE OF THE COUNTY OF THE CO
[SIGNATURES	CONTINUE ON FOLLOWING AND THE CONTIN

### **EXHIBIT "A"** Legal Description

### **Zoning Tract**

All that tract or parcel of land lying and being in Land Lots 22 and 43, 16th District of Dekalb County, Georgia, and being more particularly described as follows:

Beginning at a right of way monument found at the northwest end of the mitered intersection of the south right of way of Thompson Mill Road (80 foot right of way) and the northwest right of way of Panola Road (variable right of way);

thence along said mittered right of way intersection South 32 degrees 35 minutes 30 seconds East, a distance of 49.14 feet to a right of way monument:

thence along the northwest right of way of Panola Road South 15 degrees 01 minutes 08 seconds West, a distance of 155.05 feet to a point:

thence continuing along said right of way North 74 degrees 58 minutes 52 seconds West, a distance of 20.00 feet to a point;

thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 25.00 feet to a right of way monument;

thence continuing along said right of way South 74 degrees 58 minutes 52 seconds East, a distance of 20.00 feet to a point;

thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 290.09 feet to a point;

thence continuing along said right of way South 15 degrees 01 minutes 08 seconds West, a distance of 41.56 feet to a point:

thence leaving said right of way South 89 degrees 20 minutes 58 seconds West, a distance of 326.41 feet to a point:

thence North 01 degrees 15 minutes 57 seconds West, a distance of 424.66 feet to a point;

thence North 89 degrees 11 minutes 24 seconds West, a distance of 74.99 feet to a point;

thence North 01 degrees 15 minutes 57 seconds West, a distance of 120.10 feet to a point on the south right of way of Thompson Mill Road;

thence along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 50.03 feet to a point:

thence continuing along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 469.55 feet to a right of way monument;

said point being the POINT OF BEGINNING.

Said tract or parcel containing 226,065 square feet or 5.190 acres.

#### **EXHIBIT "B"**

#### **Legal Description**

#### Residential Tract

All that tract or parcel of land lying and being in Land Lots 22, 16th District of Dekalb County, Georgia, and being more particularly described as follows:

Commencing at a right of way monument found at the northwest end of the mitered intersection of the south right of way of Thompson Mill Road (80 foot right of way) and the northwest right of way of Panola Road (variable right of way);

thence along the south right of way of Thompson Mill Road North 89 degrees 17 minutes 52 seconds West, a distance of 469.55 feet to a point;

thence continuing along said right of way North 89 degrees 17 minutes 52 seconds West, a distance of 50.03 feet to a point:

said point being the POINT OF BEGINNING;

thence leaving said right of way South 01 degrees 15 minutes 57 seconds East, a distance of 120.10 feet to a point:

thence South 89 degrees 11 minutes 24 seconds East, a distance of 74.99 feet to a point;

thence South 01 degrees 15 minutes 57 seconds East, a distance of 424.66 feet to a point;

thence South 89 degrees 20 minutes 58 seconds West, a distance of 352.87 feet to a 3/8" rebar;

thence North 03 degrees 50 minutes 35 seconds West, a distance of 554.66 feet to a 1/2" crimped top pipe on the south right of way of Thompson Mill Road:

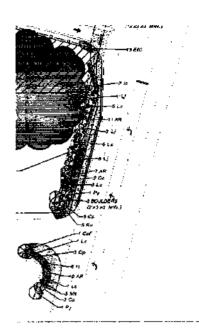
thence along said right of way South 89 degrees 17 minutes 52 seconds East, a distance of 303.03 feet to

said point being the POINT OF BEGINNING.

Said tract or parcel containing 191,634 square feet or 4.40 acres and being more particularly shown on a Zoning Plat for Cornerstone Development Partners, LLC by Armstrong Land Surveying, Inc. dated July 2, 2008, last revised September 19, 2008, and being the portion of Tract 2 outside of the limits of rezoning.

## EXHIBIT "C"

## "Panola Mills Entrance Landscape Plan"



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#### EXHIBIT "D"

**Conditions of Zoning** (Z-08-15000) Dated 12/04/08

Special Conditions. As of the date of execution of this Agreement, the parties listed as the "Owner" have fee simple title to the Zoning Tract and the Residential Tract. This Agreement is made in contemplation of the sale of the Zoning Tract to Cornerstone Development Partners, LLC ("Purchaser") with the Owner retaining the Residential Tract.

Notwithstanding anything herein to the contrary, the party nominally listed as "Owner" shall have absolutely no obligations under paragraph 1 of this Agreement and any notice affecting the Residential Tract shall be sent to M. S. Zakaria, M.D., 1590 Bethsaida Road, Riverdale, GA 30296.

A NH 1939135 v1 2908346-000001 2/4/2009

#### ZONING CONDITIONS (Z-08-15000) Dated 12/04/08

- The Subject Property shall be developed as a retail or office or restaurant center substantially 1. similar to the concept plan dated July 7, 2007, subject to modifications and eliminations approved by the DeKalb County Planning Department, and prepared by LAI Engineering, Job No.: 8193PROJ (the "Site Plan"), a copy of which was submitted to the DeKalb County Planning and Development Department on December 4, 2008 and is attached hereto as Exhibit "A" and by this reference incorporated herein. The development on the Subject Property shall be limited to buildings with a total square footage not to exceed 25,000 sq. ft.
- 2. While the landowner has pursued the much lighter zoning designation of NS (Neighborhood Shopping) instead of the more intense C1 designation, the landowner has agreed to further restrict the NS allowable uses. All of the following uses A-G are allowed under the NS designation. However, the landowner has agreed that any of the uses below that have a strike through will be prohibited uses. All other uses A - G below without a strike through will be the allowable uses.
  - Animal hospital, veterinary clinic, pot supply store, and animal grooming shop; a.
  - Art Gallery and art supply store; b.
  - d. Child day care center;
  - Office uses as follows:
    - (1)Accounting office;
    - **(2)** Engineering and architectural office;
    - Financial services office: (3)
    - Insurance office: (4)
    - Legal office; (5)
    - Medical office; **(6)**
    - Real estate office: **(7)**
  - Recreational facilities where such activities are wholly enclosed within a building; f.
  - Restaurants, but not including drive-through restaurants; The Subject Property g. will not lease space to a "restaurant" tenant that in Owners's reasonable judgment is inconsistent with restaurants typically found in first class shopping centers. For example, no pizza take out only, Chinese take out only, or Mexican take out only restaurants will be permitted. Furthermore, those allowable restaurants tenants will occupy no less than 1,000 square feet and such restaurants whose primary use is for the sale of lunch and dinner food items will be permitted so long as its take out sales do not exceed 50% of its total sales.

Furthermore, if there are any freestanding restaurants located within Subject Property, they will occupy no less than 3,500 SF and will have no less than 50 seats.

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- Retail sales as follows, but not including adult entertainment establishment and not i. including adult service facility:
  - Apparel and accessory store; with the exception that Jean Stores or athletic (1) apparel/shoe stores will be prohibited
  - Book, greeting care and stationary store; **(2)**
  - Camera and photographic supply store; (3)
  - (4) Convenience store:
  - (5) Florist:
  - Food stores, including bakeries (6)
  - Gift novelty and souvenir stores, excluding any dollar store (i.e., Dollar General, **(7)** Family Dollar, Dollar Tree, 99 Cent Stores or other similar store);
  - (8)
  - (9) Hobby, toy and game store; with the exception that electronic video game stores will be prohibited
  - (10)Jewelry store:
  - Music and musical equipment store; (11)
  - News dealers and newsstand; (12)
  - (13)Office supplies and equipment store
  - (14)Pharmacy, including convenience items;
  - (15)Quick copy printing store;
  - (16
  - (17)Sporting goods and bicycle sale;
  - Variety store; (18)
  - (19)Video tape sales and rental store;
- f. Services, personal, as follows:
  - Barbershop, beauty shop, and similar personal service establishments; (1)
  - (2) Coin operated laundry and dry cleaning store;
  - Laundry and dry-cleaning establishment and pickup station; (3)
  - (4) Personal care home, congregate;
  - (5) Personal care home, family:
  - (6) Personal care home, group;
  - Personal care home, registered; (7)
  - Day spas offering personal services such as massages and skin treatments, as (8) well as other personal care services which may include hair and nail care.
  - Photographic studios.
- Services, repair, as follows: g.
  - Jewelry repair store; **(1)**
  - **(2)** Shoe repair store.
- Accessory uses and structures allowed on the Subject Property shall consist of all accessory uses 3. and structures allowed within the NS Zoning District as enumerated in DeKalb County Zoning Code Sec. 27-559.
- In order to be clear about other uses not permitted in NS and thus this property, the following 4. uses shall also be strictly prohibited on the Subject Property;

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- Electronic game playing centers. a.
- Ь. Adult entertainment centers.
- Adult novelty stores. c.
- đ. Pawn shops.
- e. Pool halls.
- f. Tattoo parlors.
- Individual barbershops and beauty salons, but not businesses operating as a day spa offering two (2) or more of the individually prohibited service establishments, along with massages, skin treatments, etc.
- Liquor store, spirits wholesale or retail, and wine shops. Notwithstanding the h. foregoing, this condition shall not prevent liquor, wine, beer or other spirits from being sold in restaurant(s) on the Subject Property.
- Rental stores leasing furniture, trucks, tools and/or equipment (excluding stores i. lasing items used for the improvement of physical fitness and health).
- Automobile, boat, and trailer sales and service (excluding sale or leasing of self j. propelled water craft, like canoes).
- k. Car title offices.
- 1. Farmers' or flea markets, defined as an occasional or periodic market held in an open area or structure where individual non-tenant sellers offer goods to the public.
- No outdoor storage of merchandise will be permitted within the development, and no outdoor vending machines or supplies will be permitted within the development.
- 6. There shall be designated bicycle parking.
- 7. No exposed neon or box signs shall be permitted on the exterior of the buildings.
- 8. All four sides of buildings on the Subject Property shall consist of brick, stone, stucco or glass (including metal and glass store fronts and/or curtain wall systems). E.I.F.S., painted dimensioned wood, cement material (such as hardieplank), metal panels, colored precast concrete, cast stone, architectural blocks and/or cedar shake may be used as an accent material only, not to exceed 20% of the surface area. The building façade plans to be substantially similar to the elevations attached hereto as Exhibit "B" subject to modifications as some national restaurants and other retailers may require.
- The common areas within the development shall be kept and maintained in first class order and 9. repair as compared to any other first class mixed use development similar to the caliber, type and character of the development on the Subject Property and located in the general area. A Property

3 LIT/1057245.2

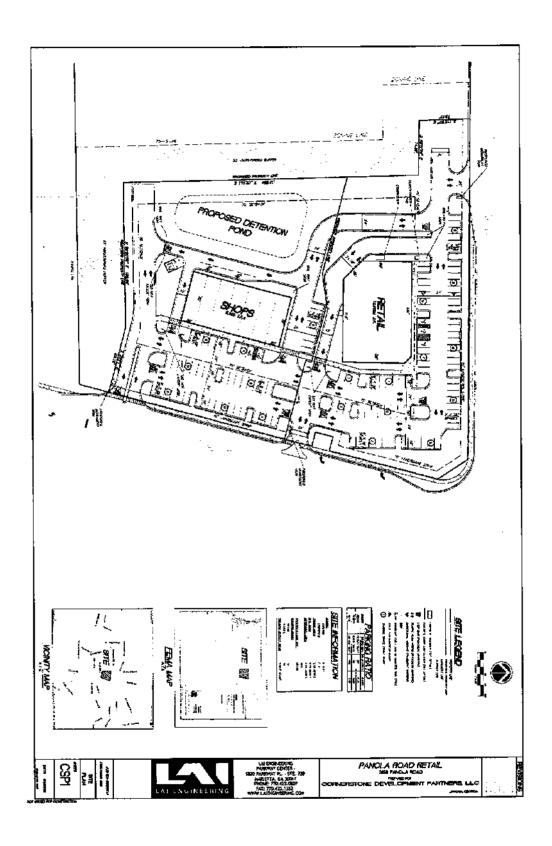
- Owners Association ("POA") shall be created and shall assume maintenance responsibilities for the Subject Property's common area once the development is completed.
- 10. As shown on the Landscape Plan dated July 7, 2008 prepared by LAI, Engineering Job NO.: 8193PROJ attached hereto as Exhibit "C", the Panola Rd and Thompson Mill Rd frontages shall be heavily landscaped with flowering trees, shrubs, and perennials. Developer will also agree to an improved landscape strip in the right of way outside the north and east property lines to the curb line of Panola Rd and Thompson Mill Rd and in order to soften the view of the parking fields, developer will create a landscaped berm along Panola Rd and Thompson Mill Road frontages as topography allows. Once planted, developer shall be responsible for the maintenance of planted materials within the limits of its property for a period of 24 months from the date a Land Disturbance Permit is issued for development of the project, and shall replace any diseased or dead landscape material as needed. After this 24 month period, the obligation and financial responsibility to maintain landscaping shall be imposed upon the mandatory POA established to maintain all common areas of the Subject Property.
- Free standing signage along the road frontage shall be monument style with sign bases 11. constructed of brick, stone or stucco finishes/veneers in compliance with all other standards of Chapter 21, Sign Regulations.
- 12. Any exterior lights, including building lights, walkway lighting, safety/security lights and parking lot lights will be screened, shielded, and/or shaded so as to minimize glare and the casting of light outside the new development. No lighting will bleed or shine onto neighboring properties. The west and south lighting of the building will be implemented with wall pack fixtures. Front lighting will be implemented with shoebox or decorative type fixtures with low (e.g. 20 foot) lighting standards. Gooseneck and "Historical period" lighting fixtures will be incorporated in building and parking lot design.
- Outdoor seating shall be allowed in the front or side of restaurant uses.. 13.
- 14. Detention structures on the Subject Property shall conform to all DeKalb County Code requirements and shall reduce the current run-off rate by 10%. Further, draining improvements shall be subject to approval of the Development Division of the Planning and Development Department, and the Drainage Division of the Public Works Department. Class 3 concrete piping will run from detention facility and flow to allowable culvert on Thompson Mill Rd.
- No construction shall take place Monday through Thursday, 7:00 p.m. 7:00 a.m., Friday, 7:00 15. p.m. - Saturday, 9:00 a.m., and Saturday, 4:00 p.m. - 12:00 a.m. No construction will be allowed on Sunday. Inaudible interior construction will be allowed Monday through Thursday, 7:00 p.m. - 8:00 p.m. General construction activities shall be limited to Monday through Friday between the hours of 7:00 a.m. and 7:00 p.m. and Saturday between the hours of 9:00 a.m. and 4:00 p.m.
- 16. All utilities are to be underground.
- Transportation and access improvements shall be subject to approval by the Development 17. Division of the Planning and Development Department, and the Transportation Division of the Public Works Department.
- Garbage dumpsters shall have sound-deadening gaskets and shall be located within a gated, 18. masonry enclosure. Excluding special circumstances, Garbage dumpster pickup shall be between 6:30 a.m. and 8:00 p.m., Monday through Saturday.

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- 19. The Site Plan may include portions of the Subject Property that will be subdivided in the future. Parts of the Subject Property may be conveyed as separate tracts and to separate owners with different ownership structures under the zoning plan. Should there be a conveyance of part of the Subject Property to different owners, all zoning conditions (and variances, if any) shall remain applicable to any portion of the conveyed property, regardless of what future person or entity owns the subdivided portion of the Subject Property. Conveyance of part of the Subject Property t different owners shall not require any changes to the zoning plan for the development (nor variances, if any). The newly-created property lines which arise from these conveyances are not required to observe setback, buffer or other requirements provided the building layout for the project as a whole continues to comply substantially with the Site Plan. The development at issue is a master planned development and shall be developed as such.
- HVAC Root Top units will be screened from view and not visible from the ground or neighboring properties.
- 21. The owner of the Subject Property agrees to enter into a binding agreement with Panola Mills Subdivision and DeKalb County and a deed restriction will be placed on the balance of this 9.5 acre tract prohibiting any future retail/shopping center zoning.

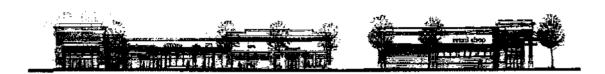
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## **EXHIBIT "A" to ZONING CONDITIONS** SITE PLAN



#### **EXHIBIT "B" to ZONING CONDITIONS**

#### Elevation

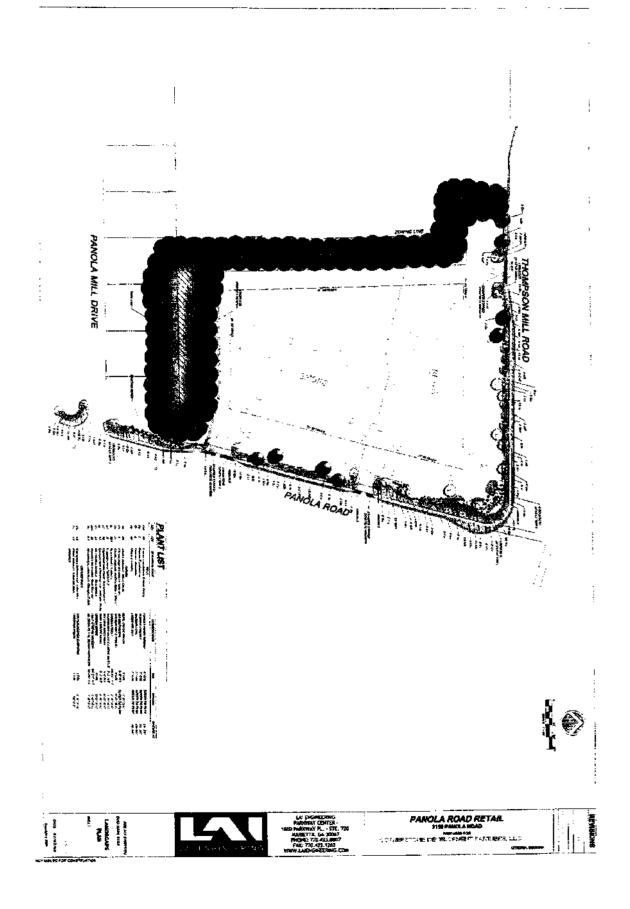


# Panola Mill Station

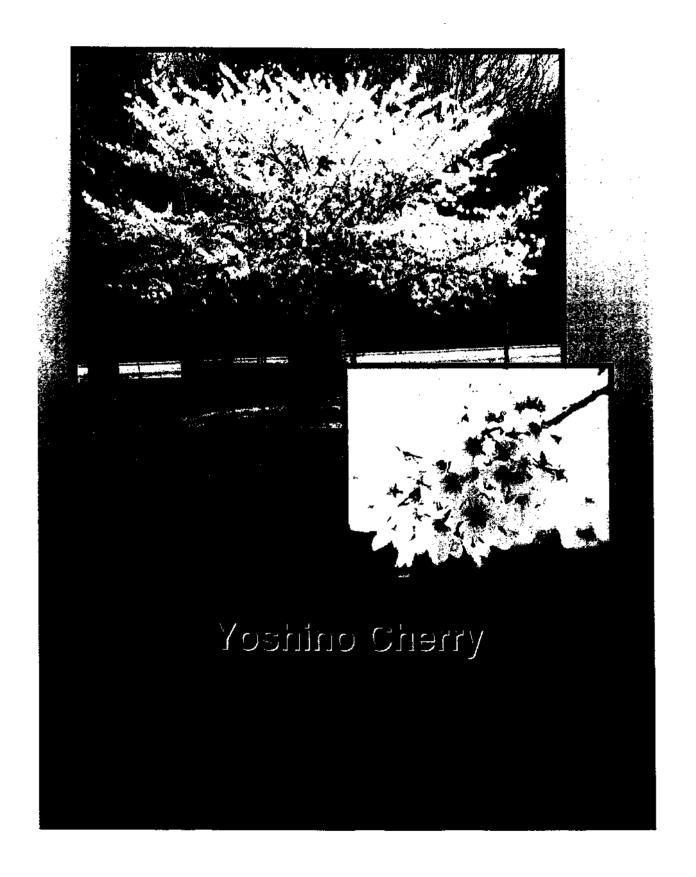
DeKalb County, Georgia

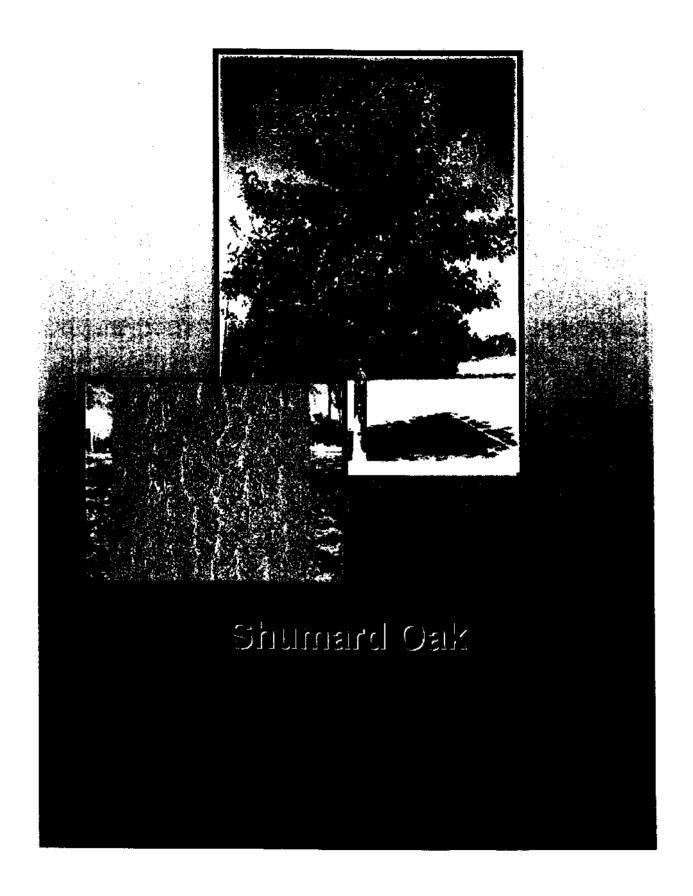
## **EXHIBIT "C" to ZONING CONDITIONS**

Landscape Plan

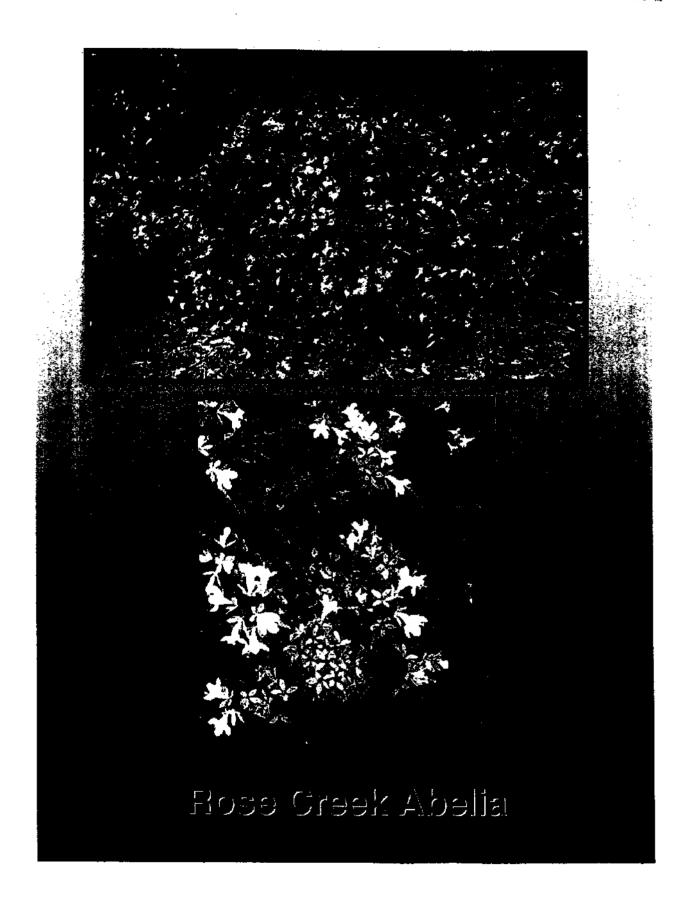


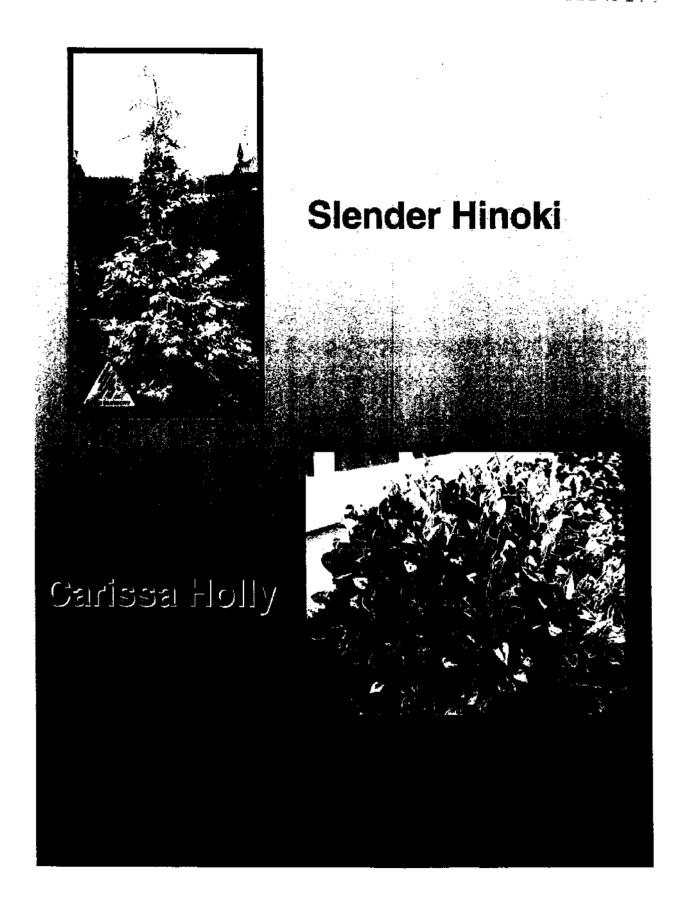




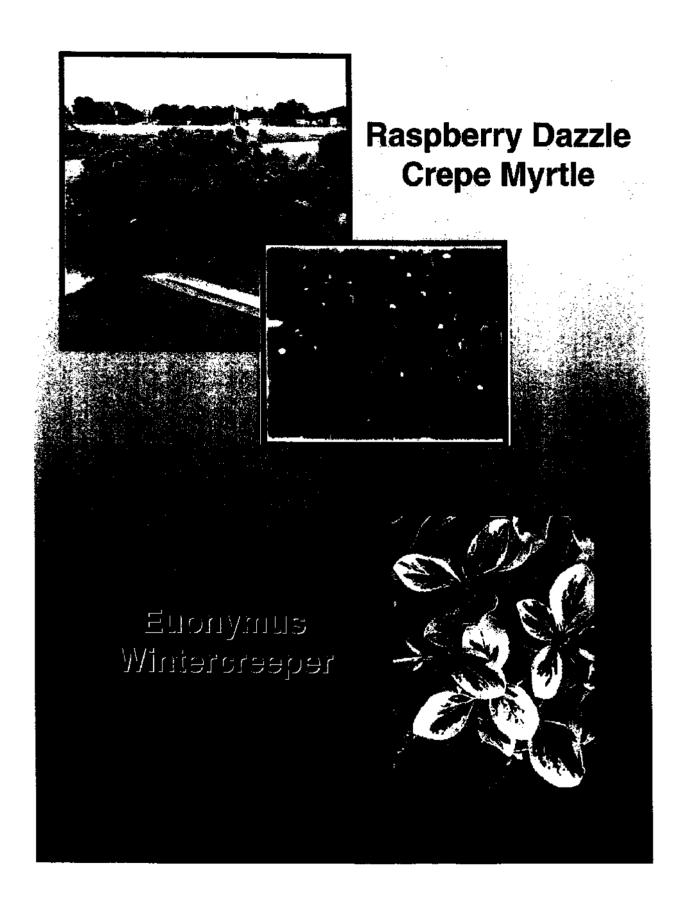


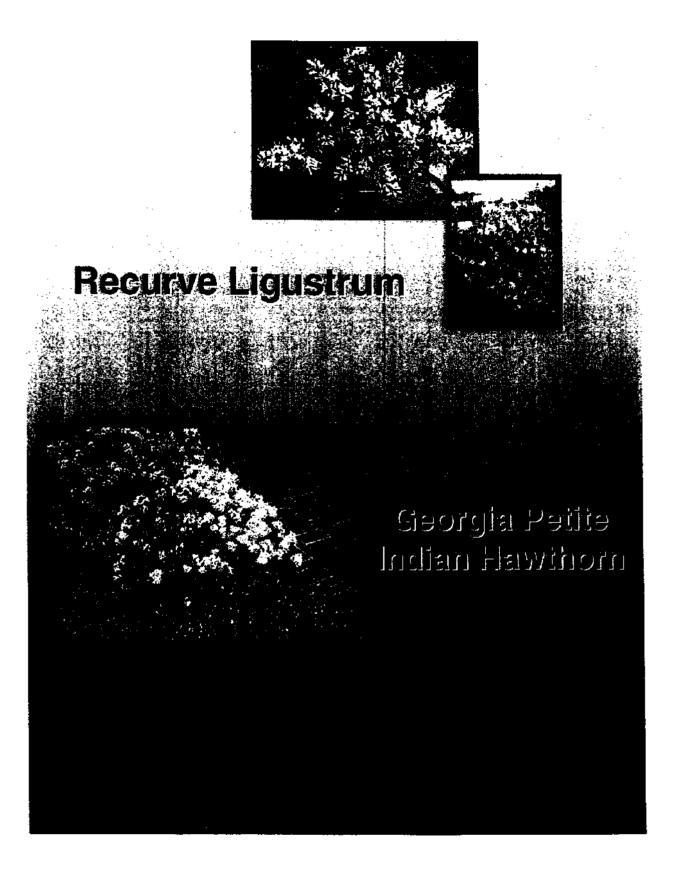


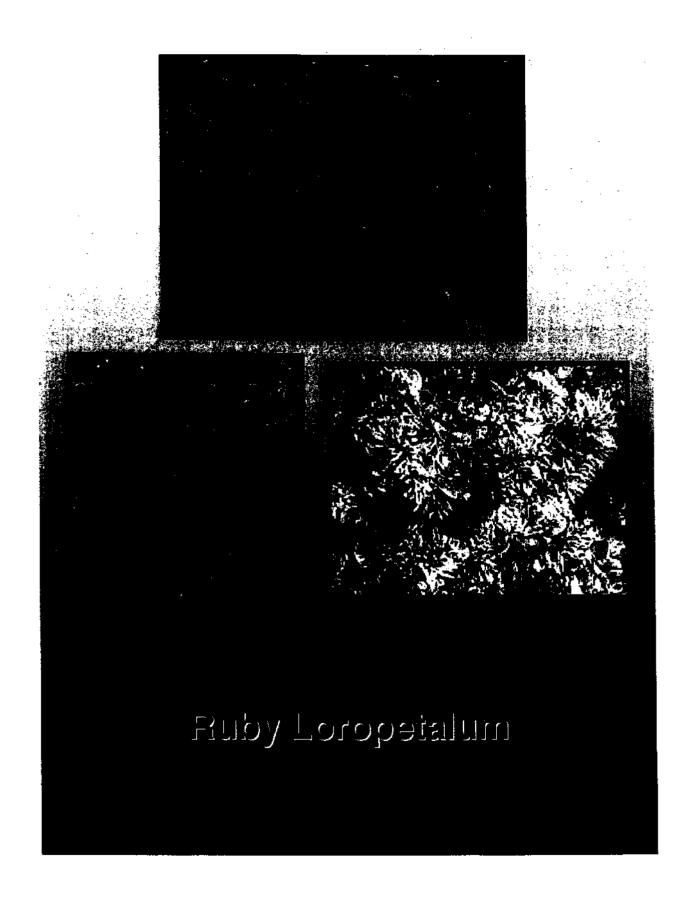


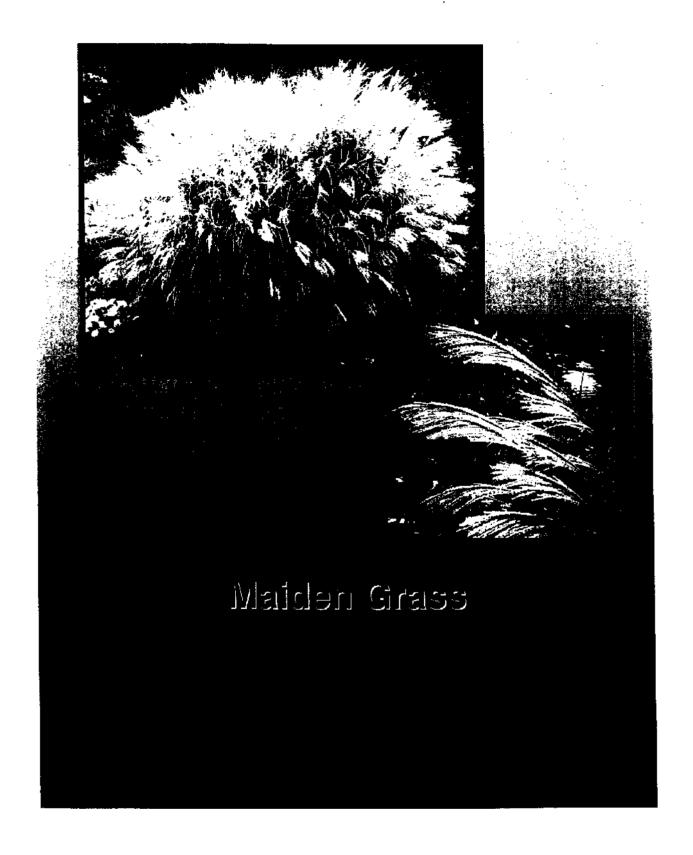














RZ-21-005

### Planning Commission Meeting September 7, 2021

#### **GENERAL INFORMATION**

**Petition Number:** RZ-21-005

**Applicant:** WSM Associates, LLC c/o Battle Law, P.C.

Owner: Donna Oliver, 6301 Browns Mill Rd

**Project Location:** 6301 Browns Mill Road, Parcel ID 16 081 01 004

**Council District:** District 5 – Tammy Grimes

**Acreage:** Approximately 6.07 acres

**Existing Zoning:** R-100 (Residential Med Lot) District, Arabia Mountain

Conservation Overlay

**Proposed Zoning:** RSM (Small Lot Residential Mix), Arabia Mountain

Conservation Overlay

**Comprehensive Plan Character** 

Area Designation: Suburban

**Proposed Development/Request:** The applicant is requesting to rezone the subject

property within the Arabia Mountain Conservation Overlay from R-100 (Residential Med Lot) to RSM (Small Lot Residential Mix) for the development of a 20

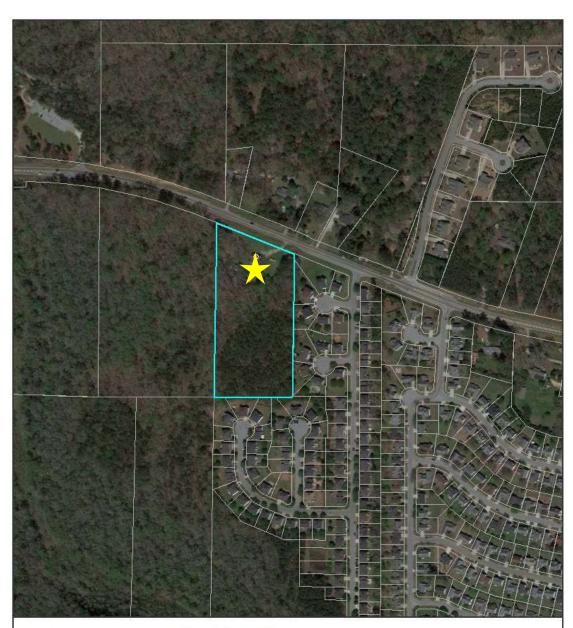
single family detached house community.

**Staff Recommendations:** Approval with conditions



RZ-21-005

## Aerial Map



ZONING CASE: RZ-21-005

ADDRESS: 6301 Browns Mill Road

CURRENT ZONING: R-100 (Residential Med Lot)

FUTURE LAND USE: Suburban

0 0.05 0.1 mi



RZ-21-005

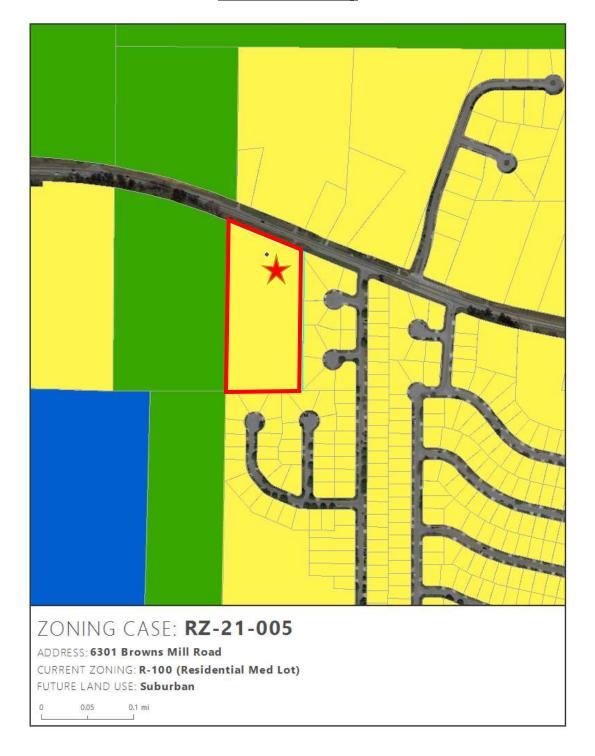
## **Zoning Map**





RZ-21-005

## **Future Land Use Map**





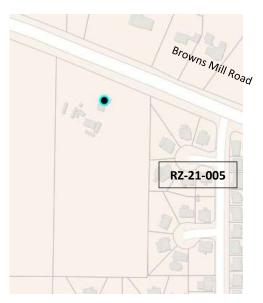
RZ-21-005

#### **PROJECT OVERVIEW**

#### Location

The subject property is located at 6301 Browns Mill Road. The property is located on the south side of Browns Mill Road and east of the Browns Mill Road and Flat Bridge Road intersection.

To the east and south of the subject property is the Carriage Park subdivision, a RSM-zoned single-family residential development. Carriage Park subdivision was built in 1998, before the creation of the Arabia Mountain Conservation Overlay. Typical lots in the subdivision are approximately 0.3 acres in area To the west is a undeveloped parcel zoned R-100, but that is owned by DeKalb County and part of the Davidson Arabia Mountain Nature Preserve.



### **Background**

Currently, the property has one single family home on it as well as a few small out buildings. The lot is heavily wooded behind the house.

The topography of the property is relatively level sloping about 20 feet lower on the west side of the parcel.





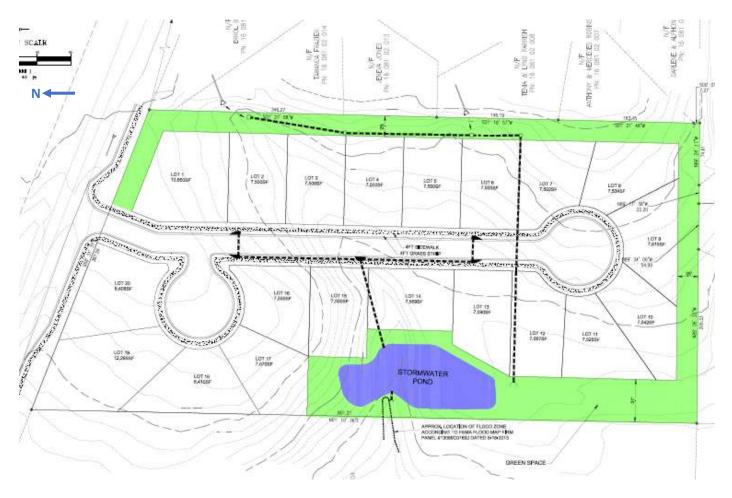
RZ-21-005

#### **Rezoning Request**

The applicant is requesting to rezone the subject property from R-100 to RSM (Small Lot Residential Mix). When this application was first submitted, it included 31 lots, but the applicant has reduced the density and is now showing 20 lots on the proposed site plan.

The subject property in located in the Arabia Mountain Conservation Overlay District where residential developments have additional regulations than what is required for the underlying zoning district. The subject parcel will remain in this overlay district regardless of City Council's decision on the rezoning. The site plan including in the application shows 20 lots with a minimum of 7,500 square feet, a 25' buffer around most of the development, and the required sidewalk and landscape strip. The site plan comes close to the intent of the Arabia Mountain Conservation Overlay District, but does not meet all requirements of the Overlay District, and the applicant was made aware of that prior to the Planning Commission meeting.

#### **Conceptual Site Plan**





RZ-21-005

The Arabia Mountain Conservation Overlay includes a number of design requirements above and beyond what a typical RSM subdivision must adhere to. These requirements include:

Sec. 3.4.7 Lot Coverage

- Net lot coverage shall not exceed 25%

Sec. 3.4.8 Clearing and grading of lots

- Clearing/grading shall be limited to 35% of net lot area

Sec. 3.4.9 Development Standards

- Minimum lot width shall be 70'
- Minimum lot area shall be 7,500 square feet
- Minimum side yard setback shall be 10 feet
- 30% greenspace required
- Internal radius of cul-de-sac can be maximum of 35 feet; must have grass and vegetation for the inner circle of turn-arounds (Sec. 3.4.9 B.b)
- Show sidewalks (Sec. 3.4.9 B.e)
- Required exterior boundary buffer (Sec. 3.4.9 C) of 25 feet

The site plan presented does not fully comply with the overlay, but is one of the first ever presented to the City for an RSM subdivision within the Arabia Mountain Conservation Overlay, and staff has worked with the applicant to arrive a plan that in concept meets the intent of the Overlay. Further modifications to the plan will be needed.

#### **Public Participation**

Property owners within 500 feet of subject property were mailed notices of the proposed rezoning. The city-sponsored community information meeting was held on August 18, 2021, at 5:00 pm via Zoom.com. Several residents show up at the community meeting regarding the rezoning application and others watch via YouTube. There were questions from the public abut the buffer and why it did not go all the way around the property.

#### STANDARDS OF REZONING REVIEW

**Section 7.3.4** of the Stonecrest Zoning Ordinance list eight factors to be considered in a technical review of a zoning case completed by the Planning and Zoning Department and Planning Commission. Each element is listed with staff analysis.



RZ-21-005

## A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The subject property is located within the Conservation/Open space character area of the Stonecrest Comprehensive Plan. The character area intends to preserve areas in the city with significant natural and ecological features. Figure LU-06 *Land Use Types and Character Areas by Zoning Category* in the Comprehensive Plan illustrates that Residential Medium Lot is a permitted zoning district within the Conservation/Open Space character area.

The proposed rezoning is in an area that is partially surrounded by single family detached homes and vacant parcels, and as long as the standards in the Arabia Mountain Overlay are met, the proposed development would meet the intent of the Comprehensive Plan.

# B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

As shown in the table below, the subject property is surrounded by a mix of land uses.

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Subject Property	R-100, proposed RSM	Detached Single Family Home	1 housing unit on 6.1 acres
Adjacent: North	R-100 (Residential Med Lot) District	Detached Single Family Home	1 housing unit on 8.7 acres
Adjacent: West	R-100 (Residential Med Lot) District	Undeveloped Nature Preserve	N/A
Adjacent: East	RSM (Small Lot Residential Mix)	Residential development of single-family homes	3.3 housing units/ac
Adjacent: South	RSM (Small Lot Residential Mix)	Residential development of single-family homes	3.3 units/ac

The proposed change in zoning would permit a use that would be suitable in view and development of the nearby properties. The rezoning would allow a medium density development that is consistent with the adjacent RSM development, but also built to a higher conservation standard consistent with the intent of the Arabia Mountain Conservation Overlay District.



RZ-21-005

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The property is currently zoned R-100, which permits single family detached homes like those proposed. RSM allows for smaller lots and smaller setbacks, however the standards and considerations in the Arabia Mountain Overlay supersede those required in the underlying zoning district. Regardless of the zoning district, the Overlay standards must be met. The property does have reasonable economic use as currently zoned.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning proposal is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. The Arabia Mountain Overlay requires a buffer around the outside of the development, so that would protect the residences to the east and the wooded areas to the west while providing an amenity for the residents of the subject property.

E. Whether there are other existing or changing conditions affecting the use and development of the property, which gives supporting grounds for either approval or disapproval of the zoning proposal.

There are no changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

There are currently no historic buildings, sites, districts, or archaeological resources on the subject property.

G. Whether the zoning proposal will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

Access to the property will be Browns Mill Road that staff believes would have the traffic capacity to handle the volume of traffic generated by the zoning change. The zoning proposal will not cause an excessive or burdensome on utilities as Dekalb County states the property has the sewer capacity for the intended use. The proposed use will not have harmful or oppressive use of schools.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The zoning proposal will not adversely impact the environment or surrounding natural resources.



RZ-21-005

#### **STAFF RECOMMENDATION**

The applicant meets all the criteria for approval. Therefore, staff recommends **APPROVAL** of **RZ-21-005** the following conditions:

- 1. The site plan must be revised and approved by the Planning & Zoning Director to reflect the intent and purpose of the Arabia Mountain Conservation Overlay District prior to permits being issued.
- 2. The applicant must submit a tree save and landscaping plan to the Director prior to receiving building or land development permits.
- 3. There shall be a Mandatory Homeowners Association which shall own and maintain the common areas, and enforce the covenants placed on the community.
- 4. Prior to the issuance of any land disturbance permit, the Applicant must provide evidence of a legal mechanism under which all land to be held in common and used for greenspace purposes within the development shall be protected in perpetuity.
- 5. A minimum 5-foot sidewalk shall be installed along the property frontage on Browns Mill Road.

#### Attachments:

1 – RZ-21-005 Application including:

Letter of Intent,

Concept Plan

**Building Elevations** 

Environmental Site Analysis

Owner and Applicant Affidavit

Public Participation Plan

## Attachment 1: RZ-21-005 Application Materials



# **Rezoning Application**

Owner's Name: Donna Oliver					
	Owner's Address: 6301 Browns Mill Road Stoned	rest, GA 3003			
on	Phone: Fax:	Email:			
Information	Property Address: 6301 Browns Mill Road Stoned	rest, GA 3003	Parcel Size: 6.07 acres		
tori	Parcel ID: 16 0 1 02 004				
=	Current Zoning Classification: R-100				
	Requested Zoning Classification: RSM				
	Name: WSM Associates, LLC c/o Battle Law, F				
	Address: One West Court Square Suite 750 D	ecatur, GA 30030			
	Phone: 404-601-7616	Fax: 404-745-0045			
tion	Cell:	Email: mlb@battlelawpc.com			
rm?	Is this development and/or request seeking any ince		City of Stonecrest or any entity		
nto	that can grant such waivers, incentives, and/or abate		Yes 🗵 No		
_  -			165 = 115		
	<ol> <li>Will the zoning proposal permit a use that is suital properties?</li> </ol>	ole in view of the use and developme	ent of adjacent and nearby		
<del>ب</del>	Yes, the zoning proposal will permit a use that is suitable	in view of the use and development of ad	jacent and nearby properties		
2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?					
No, the property has no reasonable economic use as currently zoned R-100.					
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?				
	No, the zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.				
Questionnaire					
lo	4. Are other existing or changing conditions affecting	the existing use or usability of the d	evelopment of the property		
nesi	which give supporting grounds for either approval or	disapproval of the zoning proposal?			
a	Not that the Applicant is aware of.				
	5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?				
	The zoning proposal will not adversely affect historic buildings, sites, districts, or archaeological resources.				
	The zoning proposal will not adversely affect historic buildings, sites, districts, or archaeological resources.				
	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?				
	No, the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation				
	facilities utilities or schools				

### STATEMENT OF INTENT

and

Other Material Required by
City of Stonecrest Zoning Ordinance
For
A Rezoning Application Pursuant to
City of Stonecrest Zoning Ordinance

of

WSM Associates, LLC. c/o Battle Law, P.C.

for

6.07± Acres of Land located at 6301 Browns Mill Road
Being Tax Parcel No. 160 081 02 004
Stonecrest, Georgia

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

#### I. STATEMENT OF INTENT

The Applicant, WSM Associates, LLC, seeking to rezone 6.07 acres of land located at 6301 Browns Mill Road, Stonecrest, GA 30038, being Tax ID No. 160 081 02 004 ("Subject Property"). The property is currently zoned R-100 with a future land use designation of Suburban, and is in the Arabia Mountain Overlay District. The Applicant is seeking to rezone this property to RSM to allow for a community of 31 single family-detached homes. The proposed RSM zoning and development are consistent with the future land use designation, as established in Figure LU-06 of City of Stonecrest Comprehensive Plan 2038. Additionally, the proposed rezoning and proposed development are appropriate for the area. While properties to the West of the Subject Property are currently zoned R-100, a number of properties to the immediate East of the Subject Property are zoned RSM. The Subject Property would be well suited being zoned RSM to allow for a 31 single family home community, considering its future land use designation and surrounding properties.

<b>Proposed Building Materials</b>	Hardy siding, wood, stucco, and stone accents
Unit Sizes	1,650 sf
Number of Bedrooms	3 minimum/unit
Will there be a garage for each unit?	Yes, 2 Car Garages
Will units be rear entry, front entry, or a mixture?	Mostly front entry, with some side entry garages
Anticipated List Price	\$270,000 +

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, the Rezoning Application Criteria, and the Future Land Use Map Amendment Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other

required materials.

#### II. REZONING APPLICATION CRITERIA

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;

The zoning proposal is in conformity with the policy and intent of the comprehensive plan. The rezoning would be in conformity to the comprehensive plan.

Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The properties immediately surrounding the Subject Property are zoned R-100 and RSM, and are developed as such. Additionally, all of these properties have a future land use designation of Suburban, which is consistent with the proposed rezoning and development.

B. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The Subject Property has no reasonable economic use as currently zoned.

C. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The proposed community will serve as another residential development to enhance the area's housing market.

Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;

The Applicant is not aware of any existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal.

D. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and

The zoning proposal will not adversely affect historic buildings, sites, district, or archaeological resources.

E. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The zoning proposal will not result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

# IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT'S CONSTITUTIONAL RIGHTS

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the

Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section II, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution

of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal to allow the rezoning in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

#### V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 2nd day of July, 2021.

Respectfully submitted,

Michèle L. Battle, Esq.

**Attorney For Applicant** 



## **Environmental Site Analysis**

Analyze the impact of the proposed rezoning and provide a written point-by-point response to Points 1 through 3:

#### 1. Conformance to the Comprehensive Plan:

a. Describe the proposed project and the existing environmental conditions on the site.

The proposal is to rezone from R-100 to RSM for the development of a thirty-one (31) unit single family-detached community. Currently, a large majority of the land is heavily wooded, with a single family-detached home located along Browns Mill Road.

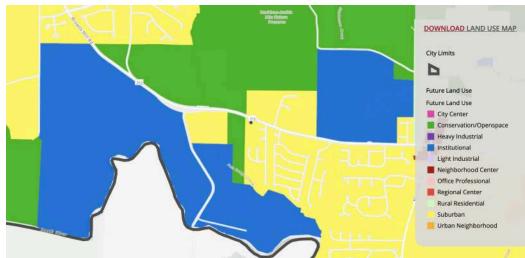
b. Describe adjacent properties. Include a site plan that depicts the proposed project.

Adjacent properties to the West include heavily wooded areas and Pole Bridge Creek. To the North there are four single family-detached homes. Lastly, to the East and South is a single family-detached community with a single entrance point on Browns Mill Road.

c. Describe how the project conforms to the Comprehensive Land Use Plan.

The Future Land Use designation of the Subject Property is Suburban. The proposed rezoning to RSM, and proposed thirty-one (31) unit single family-detached community both conform to the Comprehensive Land Use Plan, as they both fall within the Suburban Land Use category.

d. Include the portion of the Comprehensive Plan Land Use Map which supports the project's conformity to the Plan.





e. Evaluate the proposed project with respect to the land use suggestion of the Comprehensive Plan as well as any pertinent Plan policies.

The proposed project is in conformance with the land use suggestion of the Comprehensive Plan and pertinent Plan policies. The Plan allows for RSM zoning within the the Suburban Land Use designation. The proposed density is also supported by the Suburban land use designation.

#### 2. Environmental Impacts of The Proposed Project

For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information onenvironmental site features may be obtained from the indicated source(s).

- Wetlands
- U. S. Fish and Wildlife Service, National Wetlands Inventory (http://wetlands.fws.gov/downloads.htm)
- Georgia Geologic Survey (404-656-3214)
- Field observation and subsequent wetlands delineation/survey if applicable

To the Applicant's knowledge, there are no wetlands on the property.

- b. Floodplain
  - Federal Emergency Management Agency (http://www.fema.org)
  - · Field observation and verification

To the Applicant's knowledge, there are no floodplains on the property.

- c. Streams/stream buffers
  - · Field observation and verification

To the Applicant's knowledge, there are no streams on the property, but a stream does traverse near the Northern edge of the property .The stream buffer does not cross over the property.

- d. Slopes exceeding 25 percent over a 10-foot rise in elevation
  - United States Geologic Survey Topographic Quadrangle Map
  - · Field observation and verification

To the Applicant's knowledge, there are no slopes exceeding 25% over a 10-foot rise in elevation.

- e. Vegetation United States Department of Agriculture, Nature Resource Conservation Service
  - Field observation

The property is heavily wooded.

- f. Wildlife Species (including fish)
  - United States Fish and Wildlife Service
  - Georgia Department of Natural Services, Wildlife Resources Division, Natural Heritage Program
  - Field observation

To the Applicant's knowledge, there are no wildlife habitats on the property.



- g. Archeological/Historical Sites
  - Historic Resources Survey
  - Georgia Department of Natural Resources, Historic Preservation Division
  - Field observation and verification

To the Applicant's knowledge, there are no archeological/historical sites.

#### 3. Project Implementation Measures

Describe how the project implements each of the measures listed below as applicable. Indicate specific implementation measures required to protect environmental site feature(s) that may be impacted.

a. Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.

The applicant will do whatever deemed necessary to protect environmentally sensitive areas.

b. Protection of water quality

The applicant will do whatever deemed necessary to protect water quality.

c. Minimization of negative impacts on existing infrastructure

The applicant will do whatever deemed necessary to minimize negative impacts on existing infrastructure.

d. Minimization on archeological/historically significant areas

To the Applicant's knowledge, there are no archeological/historically significant areas on the property.

e. Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.

To the Applicant's knowledge, the community is not an environmentally stressed one.

f. Creation and preservation of green space and open space 3120 Stonecrest Blvd. • Stonecrest, Georgia 30038 • (770) 224-0200 •



The proposed development will include open/green space for each individual home. With a density of 5.1units/acre, each home has both a front and pack yard for residents to enjoy.

g. Protection of citizens from the negative impacts of noise and lighting

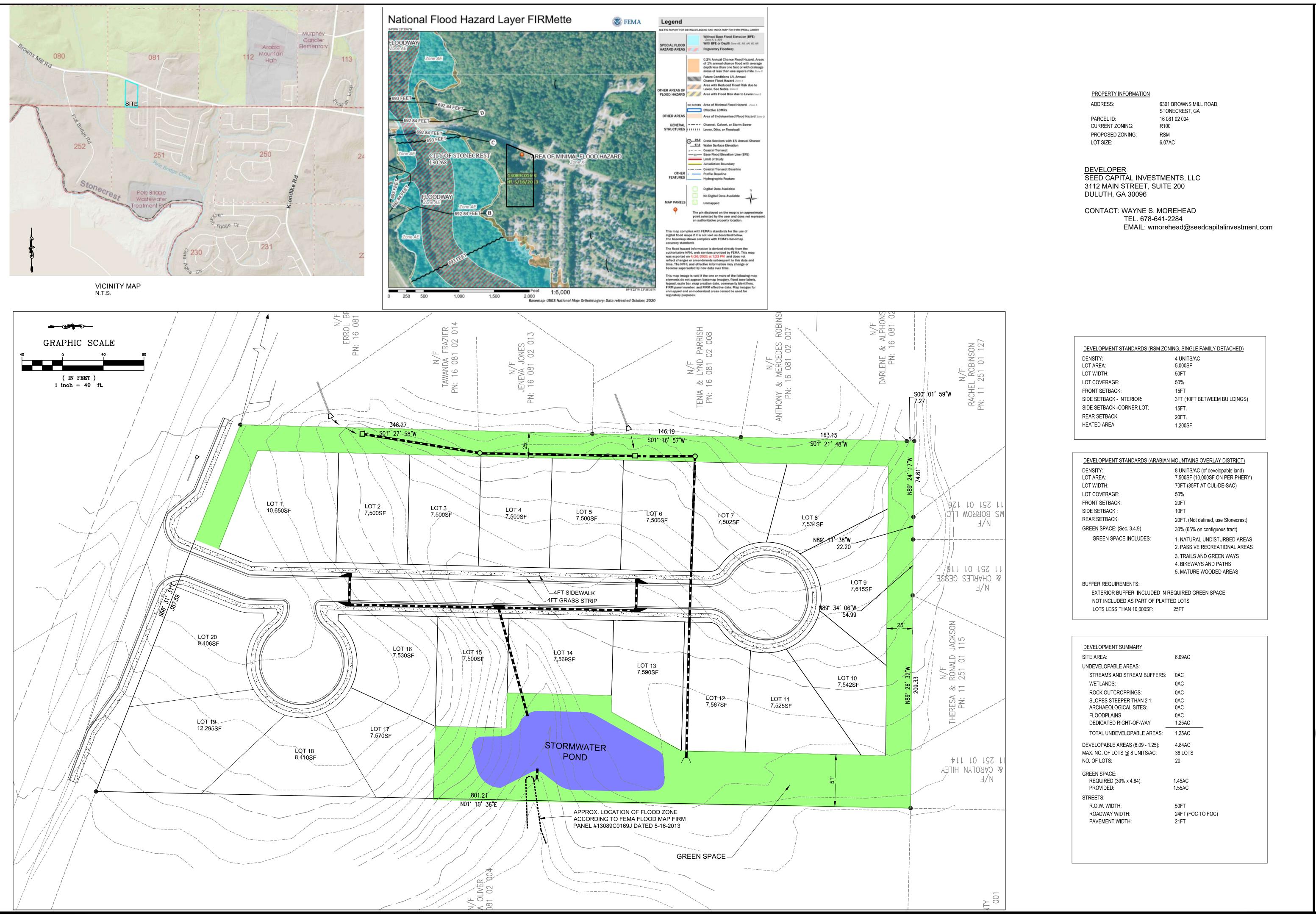
The proposed single family-detached community minimally impact current citizens in terms of noise and lighting.

h. Protection of parks and recreational green space

To the Applicant's knowledge, the proposed development will not adversely impact existing parks and recreational green space.

i. Minimization of impacts to wildlife habitats

To the Applicant's knowledge, there is no nearby wildlife habitats.



E JAMES RETREAT BROWNS MILL R VECREST, GA 300 THE 6301 | STONI

DRAWING NO.

# Proposed Representative Elevations Mid-Century Modern







## **PUBLIC PARTICIPATION PLAN**

lic	cant: WSM Associates, LLC
	The following individuals (property owners within a minimum of 500 ft of the property) homeowner's associations, political jurisdictions, other public agencies, etc. will be notified
	Everyone listed on the mailing list provided by City of Stonecrest Staff
	along with all property owners within a minimum of 750 ft of the boundaries of the property.
	The individuals and others listed in 1. above will be notified of the requested rezoning/use permit using the following method(s): (e.g., letters, meeting notices, telephone calls, e-mails, etc.)
	Letters will be mailed to all individuals listed in Paragraph 1 above.
	Individuals and others listed in 1. above will be allowed to participate in the following manner: (At least one meeting at a convenient time and location is required.)
	A community meeting will be held via Zoom between the hours of 6pm and 8:30pm on a
	a weekday, with the exception of Friday.

Attach additional sheets as needed.



## **Applicant/Petitioner Notarized Certification**

Petitioner states under oath that: {1} he/she is the executor or Attorney-In-Fact under a Power-of-Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); {2} he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").

WSM Associates, LLC Wayner Meril		Date: 0/28/
Address: 3344 Folly Beach Park	City, State: Lawrenceville, GA	Zīp: 30044
Phone: 678-641-2284		
Sworn to and subscribed before me this	day of	, 20
Notary Public:		
Signature: Karyl Beutley		Date: 6/28
Address: One West Court Square, Suite 750 City, St.	ate: Decatur, GA	Zip: 30030
Phone: 404-601-7616		
Sworn to and subscribed before me this	e day of Jeme	. 20_2-[
Notary Public:		
AUBLIC S		
COUNTY		



## **Campaign Disclosure Statement**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

Yes	No No		
The same of the sa	Signature	: Mayre March	
Applicant Owner	Address:	3/12 Main St, Ste 200	Dututh GA3006
9	Date:	7/6/2021	,

If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount



## **Campaign Disclosure Statement**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

☐ Yes	⊠ No	
	Signature:	THE STATE OF THE S
icai Vwn	Address:	One West Court Suqare, Suite 750, Decatur, GA 30030
Applicant Owne	Date:	7/6/2021

If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount



# Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for zoning amendment, and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

	Donna Oliver, as owner Signature:		Date: 6-28-202
	Address: 6301 Browns Mill Road	City, State: Stonecrest, GA	Zip: 30038
	Phone:		
Owner cable)	Sworn to and subscribed before me this_	28th Jone Jone	, 20 <mark>24</mark>
Property Owner (If Applicable)	Notary Public:	RGIA	
	Signature:	MM. EXP & G	Date:
	Address:	City, State:	Zip:
-	Phone:		
Property Owner (if Applicable)	Sworn to and subscribed before me this_	day of	, 20
Proper (If Ap)	Notary Public:		
	Signature:		Date:
	Address:	City, State:	Zip:
wner ble)	Phone:		
Property Owner (If Applicable)	Sworn to and subscribed before me this_	day of	, 20
S F	Notary Public:		



RZ-21-006

#### Planning Commission Meeting September 7, 2021

#### **GENERAL INFORMATION**

**Petition Number:** RZ-21-006

**Applicant:** Ray of Hope Christian Church Disciples of Christ c/o Battle Law, P.C.

Owner: Ray of Hope Christian Church Disciples of Christ

**Project Location:** 4700 Browns Mill Road

**District:** District 4 – George Turner

Acreage: Approximately 24.9 acres

**Existing Zoning:** RSM (Small Lot Residential Mix) with conditions

Proposed Zoning: RSM (Small Lot Residential Mix) (modification to change conditions)

**Comprehensive Plan Character** 

**Area Designation:** Suburban

**Proposed Development/Request**: The applicant is requesting a change of conditions; rezoning from RSM

(Residential Medium Lot-100) with conditions to RSM (Small Lot Residential Mix) with other conditions for the development of a 73-

townhome community with park amenities.

**Previous Action:** DeKalb County zoning case CZ-05-32 tied the rezoning of the parcel to

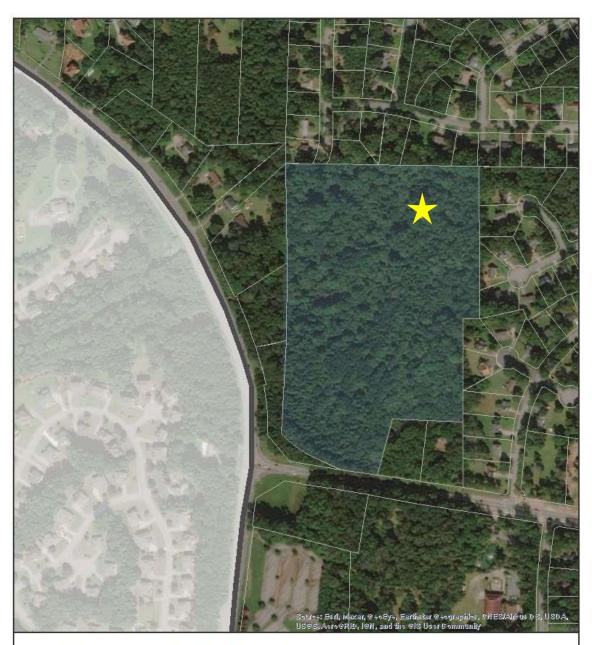
allow for 112 senior housing units

Staff Recommendations: Approval with conditions



RZ-21-006

### Aerial Map



ZONING CASE: RZ-21-006

ADDRESS: 4700 Browns Mill Road

CURRENT ZONING: RSM (Small Lot Residential Mix)

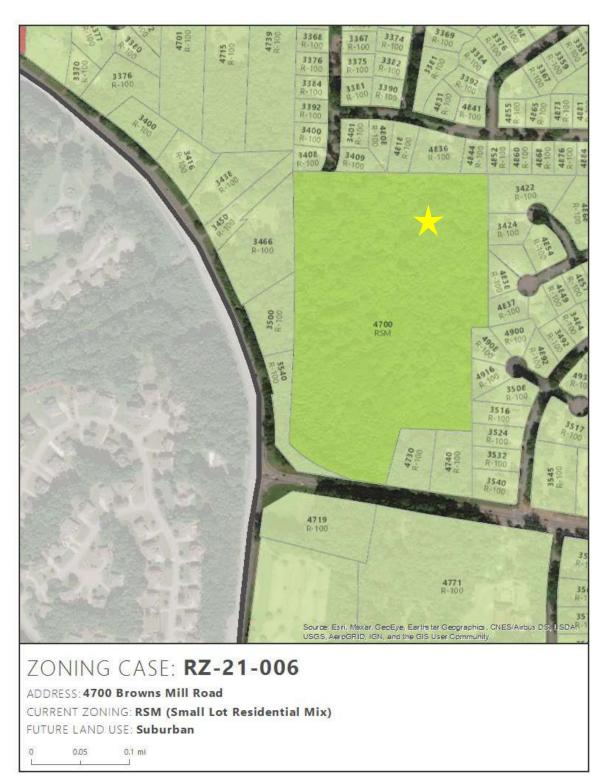
FUTURE LAND USE: Suburban

0 0.05 0.1 mi



RZ-21-006

### Zoning Map





RZ-21-006

### **Future Land Use Map**





RZ-21-006

#### **PROJECT OVERVIEW**

#### Location

The subject property is located at 4700 Browns Mill Road. The property is located on the north side of Browns Mill Road and east of the Browns Mill Road and Snapfinger Road intersection.

The subject parcel is zoned RSM and is surrounded in all directions with parcels that are zoned R-100. To the north and east there are single family home developments. To the west and south of the subject parcel there are vacant parcels.

#### **Background**

Currently, the property is undeveloped and has a creek that runs through the northwest portion of it. There is a slight east west slope on the property.

In 2005, DeKalb County approved a rezoning (case number CZ-05-32) in which the subject property was rezoned from R-100 to R-A8 to allow the applicant to construct 112 attached single family senior living units. When the City of Stonecrest was incorporated, the R-A8 zoning district became the current RSM zoning district. The Letter of Intent included in the application for RZ-21-006 states that the property has tried since 2005 to develop the parcel under those conditions from the 2005 case without success.

The Stonecrest Zoning Ordinance states that in order to modify the conditions of a zoning on a past case, the case must come back before the City Council to make the request.





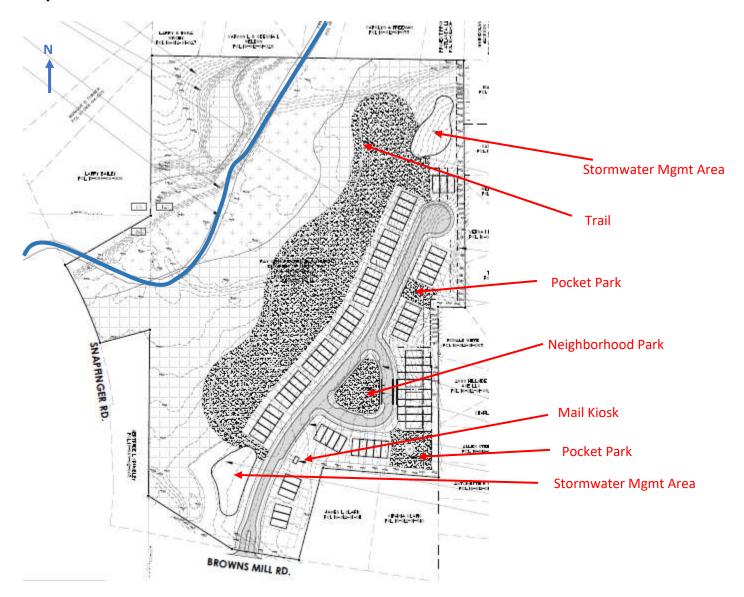


RZ-21-006

#### **Rezoning Request**

The applicant is requesting to rezone the subject property from RSM (Small Lot Residential Mix) with conditions to RSM (Small Lot Residential Mix) with different conditions. In 2005, the DeKalb County Board of Commissioners approved the site plan below to allow 112 attached senior living units on the subject parcel. The applicant is now requesting that the conditions placed on the property be removed, and new conditions be placed on the property that would allow a 73-unit townhome development. The applicant is not requesting a change in the zoning district.

#### **Proposed Site Plan**





RZ-21-006

#### **Elevations**



#### **Public Participation**

Property owners within 500 feet of subject property were mailed notices of the proposed rezoning. The city-sponsored community information meeting was held on August 18, 2021, at 5:00 pm via Zoom.com. Several residents show up at the community meeting regarding the rezoning application and others watch via YouTube.

#### **STANDARDS OF REZONING REVIEW**

**Section 7.3.4** of the Stonecrest Zoning Ordinance list eight factors to be considered in a technical review of a zoning case completed by the Planning and Zoning Department and Planning Commission. Each element is listed with staff analysis.

#### A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The subject property is located within the Suburban character area of the Stonecrest Comprehensive Plan. The Suburban character area intends to recognize those areas of the city that have developed in traditional suburban land use patterns while encouraging new development to have increased connectivity and accessibility. The proposed density for areas of this type is up to 8 dwelling units per acre.

The proposed modification of zoning conditions is on a parcel that is already zoned RSM and is partially surrounded by single-family developments. Additionally, the proposed site plan shows that the density will be well under the 8



RZ-21-006

units/acre allowed in this character area. The applicant's proposed development would meet the intent of the Comprehensive Plan.

# B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

As shown in the table below, the subject property is surrounded by a mix of land uses.

Adjacent & Surrounding Properties	Zoning (Petition Number)	Land Use	Density Non-Residential (SF/Acre) Residential (Units/Acre)
Subject Property	RSM, proposed RSM	Current: Undeveloped Proposed: Townhomes	Proposed: 2.9 units/acre
Adjacent: North	R-100 (Residential Med Lot) District	Residential development of single-family homes	2 units per acre
Adjacent: West	R-100 (Residential Med Lot) District	Undeveloped and one single family home (northwest)	
Adjacent: East	R-100 (Residential Med Lot) District	Residential development of single-family homes	2 units per acre
Adjacent: South	R-100 (Residential Med Lot) District	Undeveloped land	

The proposed change in zoning conditions would permit a use that would be suitable in view and development of the nearby properties. A change in the zoning of the property is not part of the applicant's request, and the proposed site plan shows a reduction of density from 4.8 units/acre to 2.9 units/acre. The previously approved site plan was for apartments, where the site plan included in the RZ-21-006 application is for owner-occupied townhomes. An owner-occupied product is more in line with surrounding land uses.

# C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The property is currently zoned RSM with conditions which allows for 112-unit senior living attached units. Although generally there is an economic use for the subject parcel as it is currently zoned, the property owner, Ray of Hope Christian Church Disciples of Christ, has tried for several years to find an interested developer without success.



RZ-21-006

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The proposed zoning proposal is not anticipated to have a negative impact on the existing use or usability of adjacent or nearby properties. The applicant is not requesting a change in the zoning conditions, only the conditions of zoning from the 2005 case. Right now, apartments are allowed on the property and the applicant is requesting a change in the conditions to allow attached townhomes. Townhomes would be more compatible with adjacent and nearby properties.

E. Whether there are other existing or changing conditions affecting the use and development of the property, which gives supporting grounds for either approval or disapproval of the zoning proposal.

There is a stream in the northwest portion of the subject parcel that impacts the development of the site. The stream would require a 75' buffer on each side. The proposed site plan reflects this requirement.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

There are currently no historic buildings, sites, districts, or archaeological resources on the subject property.

G. Whether the zoning proposal will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

Access to the property will be Browns Mill Road that staff believes would have the capacity to handle the volume of traffic generated by the modification oof zoning conditions. The proposal will not cause an excessive or burdensome on utilities as Dekalb County states the property has the sewer capacity for the intended use. The proposed use will not have harmful or oppressive use of schools.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The zoning proposal will not adversely impact the environment or surrounding natural resources.



RZ-21-006

#### **STAFF RECOMMENDATION**

The applicant meets all the criteria for approval. Therefore, staff recommends APPROVAL of RZ-21-006 the following conditions:

- 1. The property shall be developed in general conformance with the site plan submitted with this application, dated 8/06/2021.
- 2. There shall be a Mandatory Homeowners Association which shall own and maintain the common areas, and enforce the covenants placed on the community.
- 3. Prior to the issuance of any land disturbance permit, the Applicant must provide evidence of a legal mechanism under which all land to be held in common and used for greenspace purposes within the development shall be protected in perpetuity.
- 4. The applicant must submit a tree save and landscaping plan to the Director prior to issuance of building or land development permits.
- 5. The City Engineer shall review and approve driveway location prior to the issuance of building or land development permits.

#### Attachments:

1 – RZ-21-006 Application including:

Letter of Intent,

Concept Plan

**Building Elevations** 

Environmental Site Analysis

Owner and Applicant Affidavit

Public Participation Plan

2 - DeKalb County 2005 Rezoning Case File for CZ-05-32

## Attachment 1: RZ-21-006 Application Materials



# **Amendment Application**

	Owner's Name: Ray of Hope Christian Church Disciples of Christ, Inc.			
	Owner's Address: 2778 Snapfinger Road Decatur, Georgia 30034			
u	Phone: 770-696-5100 Fax: Email: chale52@rayofhope.org			
mormanon	Property Address: 4700 Browns Mill Road Stonecrest, Georgia 30038 Parcel Size: 24.9			
5	Parcel ID: 16 012 01 007			
	Current Zoning Classification: RSM with conditions			
	Requested Zoning Classification: RSM with other conditions			
	Name: Ray of Hope Christian Church Disciples of Christ, Inc. c/o Battle Law, P.C.			
ı	Address: One West Court Square, Suite 750, Decatur, GA 30030			
	Phone: 404.601.7616 Fax: 404.745.0045			
	Cell: Email: mlb@battlelawpc.com			
riopeity initialination	Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? $\Box$ Yes $\Box$ No			
Topera	1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?			
-	See Attached Statement of Intent and Impact Analysis			
ı	2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?			
	3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?			
ב				
4. Are other existing or changing conditions affecting the existing use or usability of the development of the proposal?  which give supporting grounds for either approval or disapproval of the zoning proposal?				
5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?				
	6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?			



Affidavit	To the best of my knowledge, this zoning application form is correct and complete. If ad to be necessary, I understand that I am responsible for filing additional materials as specially ordinance.	ditional materials are determined cified by the City of Stonecrest
Affic	Cynthia L. Hole	
	Applicant's Name: Ray of Hope Christian Church Disciples of Christ, Inc. c/o	
	Applicant's Signature: 44 / Jale	Date: 8/3/2021
	Sworn to and subscribed before me this Day of Au 6wsT	20 21
2	MONIQUE WODDERSUM BLOWN	
Notary	Notary Public: Weddebung	DERBURY
	Signature:	OTAN
	01/05/2024	10/10/11/11
	My Commission Expires:	BUS OBLIGHTS
	Application Fee Sign Fee Legal Fee	ALE COUNTY
Fee	Fee: \$ Payment: Cash Check CC	Date:
HA	☐ Approved ☐ Approved with Conditions ☐ Denied ☐ Date:	

<sup>\*</sup>One sign is required per street frontage and/or every 500 feet of street frontage

#### **STATEMENT OF INTENT**

and

Other Material Required by
City of Stonecrest Zoning Ordinance
For
A Rezoning Application Pursuant to
City of Stonecrest Zoning Ordinance

of

Ray of Home Christian Church Disciples of Christ, Inc. c/o Battle Law, P.C.

for

24.9± Acres of Land located at 6301 Browns Mill Road Being Tax Parcel No. 16 012 01 007 Stonecrest, Georgia

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
3562 Habersham at Northlake, Bldg. J
Tucker, GA 30084
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

#### I. STATEMENT OF INTENT

The Applicant, Ray of Home Christian Church Disciples of Christ, Inc., is seeking to rezone 24.9 acres of land located at 4700 Browns Mill Road, Stonecrest, GA 30038, being Tax ID No. 16 012 01 007 ("Subject Property"). The property is currently zoned RSM (with conditions, pursuant to CZ-05-32, attached) with a future land use designation of Suburban. The Applicant is seeking to rezone this property to RSM with other conditions to allow for a community of 73 townhomes with a landscaped common space complete with firepits and seating areas. The proposed RSM zoning and development are consistent with the future land use designation, as established in Figure LU-06 of City of Stonecrest Comprehensive Plan 2038. Additionally, the proposed rezoning and proposed development are appropriate for the area. Properties immediately adjacent to the Subject Property are zoned RSM. The Subject Property is well suited being zoned RSM. The Applicant is only seeking to change zoning conditions to allow for a 73-unit townhome community.

Current Zoning	RSM with conditions
Proposed Zoning	RSM with other conditions
Future Land Use	Suburban
Number of Units	73 townhomes
Amenities	Landscaped common space complete with firepits and seating areas
Open Space	19.4 ac
Total Acreage	+/- 24.9ac

#### II. PROPERTY HISTORY

The Applicant and/or its affiliated entity, City of Hope, Inc., have owned the Subject Property for over 35 year. It was the Applicant's desire for decades to develop senior housing on

the Subject Property. So, in 2005 the Applicant worked with a developer to rezone the Subject Property to RA-8 (know known as RSM) for the development of a 122 unit affordable senior apartment community in a townhome configuration. After the rezoning the deal with the developer fell through, and for over the past 16 years the Applicant has sought to sell or partner with others to developer the approved senior community on the property. Several developers over the past 16 years, including one in the past twelve months, have all reached the same conclusion --the numbers simply don't work.

After years of trying the Applicant has exhausted their efforts and is now looking to use the proceeds from the sale of the Subject Property to support the mission of the Church, including supporting seniors in the area. The Applicant has sought the input of development professionals and determined that the best use for the Subject Property is to convert the townhome units initially proposed into a for sale townhome community. In order to achieve this goal, the Applicant has put together a team of development professionals to guide them through this process, so that the Subject Property can be marketed for sale for the Subject Property's highest and best use.

This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, the Rezoning Application Criteria, and the Future Land Use Map Amendment Criteria. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

#### III. REZONING APPLICATION CRITERIA

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;

The zoning proposal is in conformity with the policy and intent of the comprehensive plan. The Applicant is only seeking to change the zoning conditions on the Subject Property. The Subject Property is located at the intersection of Snapfinger Road and Browns Mill Road, which are both arterial roads. The existing RSM is a suitable use for a property having frontage on a

commercial corridor.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The Subject Property is already zoned for townhome units. The difference is that there will be fewer units, and each townhome unit will only serve one family, instead of two apartment flats. The reduction in density is appropriate to balance out the units being for individuals and families, and not only seniors who drive less. Additionally, the conversion of the Subject Property into fee simply townhome units is more compatible with the surrounding single family detached units than an apartment complex.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The Subject Property has no reasonable economic use as currently zoned. The existing conditions limit the use of the Subject Property to a product that simply cannot be built. The Applicant has tired for 16 years to develop the Subject Property as currently zoned with ZERO success. It is past time to have the conditions removed so that the Applicant can continue so support its mission.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The proposed community will serve as another residential development to enhance the area's housing market.

E. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;

The area in which the Subject Property is located is changing as local businesses are being started in the area, and old commercial development is being updated. The area is seeing a resurgence and this resurgence has positively impacted the value of the Subject Property, provided that this Modification of Conditions Application is approved. Without this approval, the Subject Property will have no value to the Applicant or anyone else, and thereby deprive the Applicant of the opportunity to sell the Subject Property for its highest and best use.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and

The zoning proposal will not adversely affect historic buildings, sites, district, or archaeological resources.

G. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The zoning proposal will not result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

# IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF APPLICANT'S CONSTITUTIONAL RIGHTS

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the City of Stonecrest City Council to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant to the extent such

different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A refusal to allow the land use amendment and/or rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of DeKalb demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

The portions of the City of Stonecrest Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Stonecrest Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal to allow the special land use permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

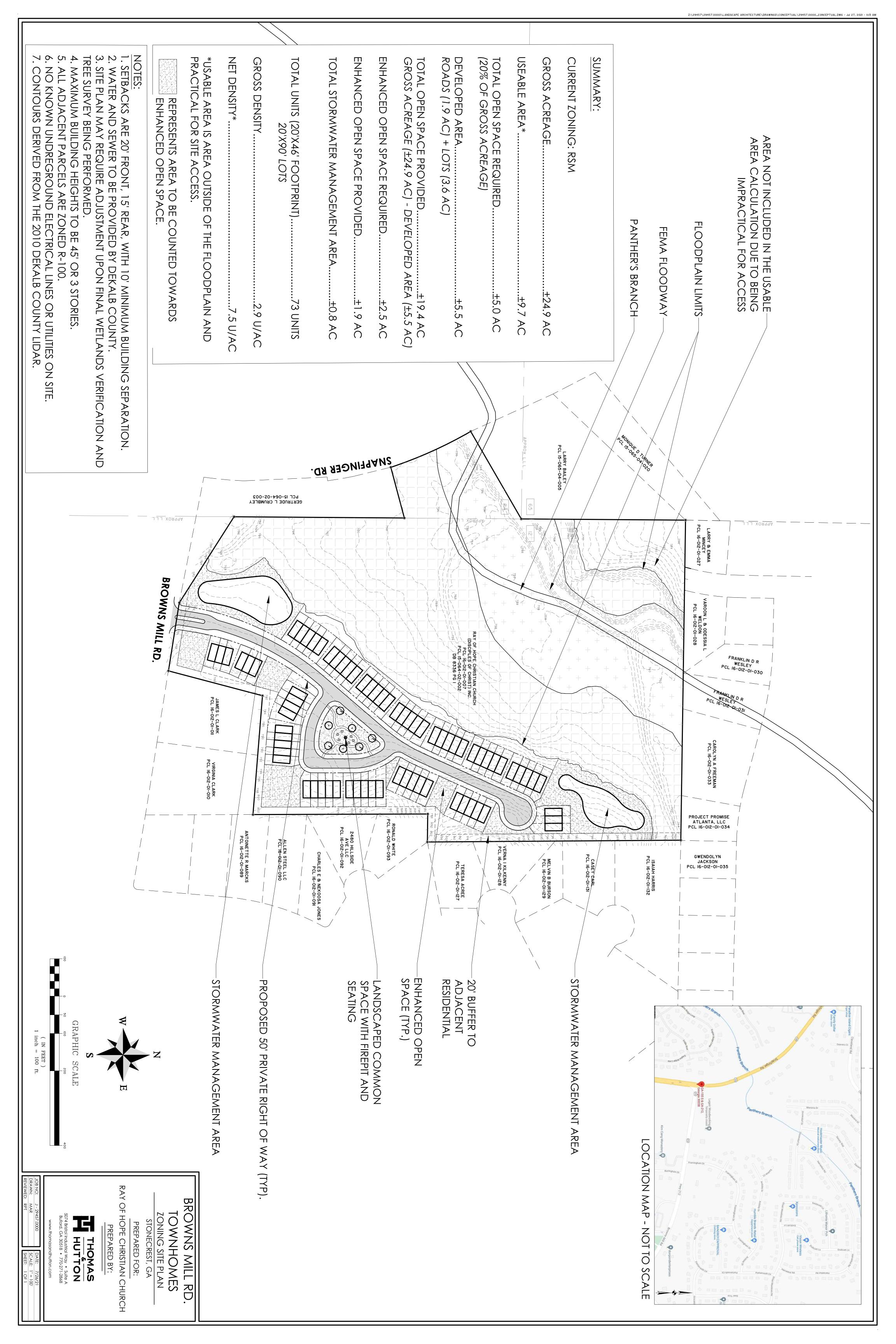
#### V. <u>CONCLUSION</u>

For the foregoing reasons, the Applicant respectfully requests that the simultaneous Future Land Use Amendment Application and Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Stonecrest so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 9th day of August, 2021.

Respectfully submitted,

Michèle L. Battle, Esq. Attorney For Applicant









#### **Purpose & Process**

A Pre-Application Meeting provides you the opportunity to present a conceptual plan and letter of intent to a representative of the Planning & Zoning Department. This meeting benefits you, the applicant, by receiving general comments on the feasibility of the plan, the process(es) procedure(s) and fees required to process and review the application(s). To schedule a meeting contact a member of the Planning and Zoning Department by calling (770) 224-0200.

Meeting Date & Time:	July 28, 2021	10:00a	m -10:30am	
Applicant/Representation	tive Name: _Ray of <u>Hope</u>	Christian Church, Inc. c	/o Battle Law, P <u>.C.</u>	Phone: 404-601-7616
Applicant/Representation	tive Email:	mlb@battlelawpc.c	om	
Stie Address:4	700 Browns Mill Rd	Pa	rcel ID #: <u>16 01</u> 2	2 01 007
Previous Zoning & Cas	e number(s):CZ-05-3	320	Current Zoning:	RSM-with condition
	District 4			
Comprehensive Plan Ch	aracter Area Map Design	ation:Suburba	n Neighborhood _	
Application Type:	Rezoning Spec	cial Land Use Permit V	amiaWaeiaTnypee: ☐ S	Special <b>Exchai</b> ntion rative
Zoning Board of Appeal	s ☐ Stream Buffer ☐			
Overlay District:	☐ I-20 ☐ Stonecrest	☐Arabia Mountain		
Additional Studies:	☐ Trip Generation Repo ☐ Developmental of Re ☐ Concept Plan Review	egional Impact Review	☐ Traffic Impac ☐ Environment	•
Proposal Description:	The Applicant is seeking a	a change of conditions t	o allow for a 73 unit	t townhome community.
Meeting Participants:				
Applicant/Representat	ive Signature:		Date:	
Director/Planner Signa	ture:		Date:	8-5-2021



## **Campaign Disclosure Statement**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

Yes	₽No
	Ray of Hope Christian Church Disciples of Christ, Inc.
1	Signature: Cy / Mol
Applicant Owner	Address: 2778 Snapfinger Road Decatur, Georgia 30034
Арр	Date: 8/3/2021

If you answered yes above, please complete the following section:

Date	Government Official	Official Position	Description	Amount
$\neg \dagger$				



# Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for zoning amendment, and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

Ray of Hope Christian Church Disciples of Christ, Inc.					
	Signature: (4 L/lelu	<u></u>	Date: 8/3/202/		
	Address: 2778 Snapfinger Road	City, State: Decatur, GA	Zip: 30034		
	Phone: 770-696-5100				
Owner cable]	Sworn to and subscribed before me this_	3rd day of July	t , 2021		
Property Owner (If Applicable)	Notary Public: WWeddubur&	••••	ROCKO		
	Signature:		Date:		
	Address:	City, State:	Zip:		
• -	Phone:				
Property Owner (If Applicable)	Sworn to and subscribed before me this_	day of	, 20		
Proper (If Ap)	Notary Public:		· II		
	Signature:		Date:		
	Address:	City, State:	Zip:		
Owner able)	Phone:				
Property Owner (If Applicable)	Sworn to and subscribed before me this_	day of	, 20		
Pro	Notary Public:				



# **Applicant/Petitioner Notarized Certification**

Petitioner states under oath that: {1} he/she is the executor or Attorney-In-Fact under a Power-of- Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").

Address: 2778 Snapfinger Road	City, State; Decatur, GA	Date: 8/3/2 Zip: 30034
Phone: 770-696-5100	juity, State: Decatar, GA	Zip. 00001
Sworn to and subscribed before me this_	3rd day of AUGUST	, 20 2 \
Notary Public:    Weddubu, -B   Signature:		Date:
Address:	City, State:	Zip:
Phone:		
Sworn to and subscribed before me this_	day of	, 20

# **PUBLIC PARTICIPATION PLAN**

plic	ant: Ray of Hope Christian Church Disciples of Christ, Inc.
	The following individuals (property owners within a minimum of 750 ft of the property nomeowner's associations, political jurisdictions, other public agencies, etc., will be notified
	The City of Stonecrest will notify property owners within at least 500 feet from the property to attend their City of
	Stonecrest sponsored Community Information Meeting on August 18, 2021.
	The individuals and others listed in 1. above will be notified of the requested rezoning/use permit using the following method(s): (e.g., letters, meeting notices, telephone calls, e-mails, etc.)  Property owners within at least 500 feet from the property will be notified by the City of Stonecrest staff in
	whichever method of notification staff chooses.
	Individuals and others listed in 1. above will be allowed to participate in the following manner: (At least one meeting at a convenient time and location is required.)
	Individuals will be allowed to participate by attending the City of Stonecrest sponsored Community Information
	Meeting on August 18, 2021 where we will be in attendance.

Attach additional sheets as needed.



# **Environmental Site Analysis**

Analyze the impact of the proposed rezoning and provide a written point-by-point response to Points 1 through 3: 1. Conformance to the Comprehensive Plan:

a. Describe the proposed project and the existing environmental conditions on the site.

The Applicant is seeking to rezone the Subject Property, being Parcel No. 16 012 01 007 from RSM with conditions to RSM other conditions to allow for 73 townhome units at a gross density of 2.9 u/ac (net density of 7.5 u/ac).

b. Describe adjacent properties. Include a site plan that depicts the proposed project.

Adjacent properties are primarily residential; RSM immediately adjacent and R-100 outside of that.

c. Describe how the project conforms to the Comprehensive Land Use Plan.

The Future Land Use designation of the Subject Property is Suburban. The proposed change in conditions and proposed seventy-three (73) unit townhome community both conform to the Comprehensive Land Use Plan, as they both fall within the Suburban Land Use category. The Applicant is not seeking to change the current zoning classification of the Subject Property, but rather change the zoning conditions. Include the portion of the Comprehensive Plan Land Use Map which supports the project's conformity to the Plan.



d. Evaluate the proposed project with respect to the land use suggestion of the Comprehensive Plan as well as any pertinent Plan policies.

The proposed project is in conformance with the land use suggestion of the Comprehensive Plan and pertinent Plan policies. The Plan allows for RSM zoning within the Suburban Land Use designation. The proposed density is also supported by the Suburban land use designation.



#### 2. Environmental Impacts of The Proposed Project

For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information on environmental site features may be obtained from the indicated source(s).

#### a. Wetlands

- U. S. Fish and Wildlife Service, National Wetlands Inventory (<a href="http://wetlands.fws.gov/downloads.htm">http://wetlands.fws.gov/downloads.htm</a>)
- Georgia Geologic Survey (404-656-3214)
- Field observation and subsequent wetlands delineation/survey if applicable

To the Applicant's knowledge, there are no wetlands on the

property. b. Floodplain

- Federal Emergency Management Agency (http://www.fema.org)
- Field observation and verification

There is a floodplain on the Northwestern portion of the Subject Property.

- c. Streams/stream buffers
  - · Field observation and verification

There is a river, Panther's Branch, and buffer that intersects the Northwestern portion of the Subject Property.

- d. Slopes exceeding 25 percent over a 10-foot rise in elevation
  - United States Geologic Survey Topographic Quadrangle Map
  - · Field observation and verification

To the Applicant's knowledge, there are no slopes exceeding 25% over a 10-foot rise in elevation.

- e. Vegetation United States Department of Agriculture, Nature Resource Conservation Service
  - Field observation

The property is heavily wooded.

- f. Wildlife Species (including fish)
  - · United States Fish and Wildlife Service
  - Georgia Department of Natural Services, Wildlife Resources Division, Natural Heritage Program
  - · Field observation

To the Applicant's knowledge, there are no wildlife habitats on the property.

- g. Archeological/Historical Sites
  - · Historic Resources Survey
  - Georgia Department of Natural Resources, Historic Preservation Division
  - · Field observation and verification

To the Applicant's knowledge, there are no archeological/historical sites.



#### 3. Project Implementation Measures

Describe how the project implements each of the measures listed below as applicable. Indicate specific implementation measures required to protect environmental site feature(s) that may be impacted.

a. Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.

The applicant will do whatever deemed necessary to protect environmentally sensitive

areas. b. Protection of water quality

The applicant will do whatever deemed necessary to protect water quality.

c. Minimization of negative impacts on existing infrastructure

The applicant will do whatever deemed necessary to minimize negative impacts on existing infrastructure.

d. Minimization on archeological/historically significant areas

To the Applicant's knowledge, there are no archeological/historically significant areas on the property.

e. Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, guarries and manufacturing facilities) uses.

To the Applicant's knowledge, the community is not an environmentally stressed one.

f. Creation and preservation of green space and open space



The proposed development includes 19.4 acres of open space, including 1.9 acres of enhanced open space.

g. Protection of citizens from the negative impacts of noise and lighting

The proposed single family-detached community minimally impact current citizens in terms of noise and lighting.

h. Protection of parks and recreational green space

To the Applicant's knowledge, the proposed development will not adversely impact existing parks and recreational green space.

i. Minimization of impacts to wildlife habitats

To the Applicant's knowledge, there is no nearby wildlife habitats.

#### **Exhibit A**

#### [LEGAL DESCRIPTION OF THE LAND]

All that tract of parcel of land lying and being in Land Lot 64 of the 15<sup>th</sup> District and Land Lot 12 of the 16<sup>th</sup> District of Dekalb County, Georgia and being more particularly described as follows:

BEGINNING at ½" rebar tron pan placed at the intersection of the Northern right-of-way of Browns Mill Road (100" R/W) with the centertine of the Old Road Bed; thence running North 58 degrees 49 minutes 59 seconds West along the centertine of Old Road Bed a distance of 272 90 feet to a ½" rebar iron pan found at the intersection of Old Road Bed with the common Land Lot and District Line of Land Lot 64 of the 15" District and Land Lot 12 of the 16th District of Dekalb County, Georgia, thence running North 00 degrees 53 minutes 19 seconds West along said common Land Lot and District Line a distance of 456 05 feet to a ½" rebar iron pin placed, thence running South 73 degrees 45 manutes 22 seconds West a distance of 140 70 feet to a ½" rebar iron pin placed on the Eastern right-of-way of Suapfinger Road (State Route 155) (R/W varies), thence running North 25 degrees 26 minutes 43 seconds West along said right-of-way an ere distance of 235.0 feet (Chord = 234.6") to a ½" rebar iron pin placed, thence running Northeasterly along the centerline of Panthers Creek a distance of 270 feet more or less (Chord distance of 270 78" and having a bearing of North 58 degrees 40 minutes 32 seconds East) to a ½" rebar iron pin placed on the common Land Lot and District ben of Land Lot 64 of the 15th District and Land Lot 12 of the 16th District of Dekalb County, Georgia: thence running North 89 Degrees 32 minutes 38 seconds East a distance of 857 32 feet to a nail found in fence post, thence running South 01 degrees 43 minutes 25 seconds West a distance of 74 97 feet to a ½" rebar iron pin found; thence running South 89 degrees 23 minutes 25 seconds West a distance of 74 97 feet to a ½" rebar iron pin found; thence running South 13 degrees 30 manutes 00 seconds West a distance of 184 6 feet to a ½" rebar iron pin found; thence running South 13 degrees 30 manutes 00 seconds West a distance of 184 6 feet to a ½" rebar iron pin placed on the Northern right-of-way of Browns Mill Road; thence running North 82 degrees 18 minutes 41 seco

All that tract or parcel of land lying and being in Land Lot 64 of the 15th, District and Land Lot 12 of the 16th District of DeKalb County, Georgia and Deing more particularly described as follows:

BESINNING at a 1/2" rebar iron pin placed at the intersection of the Northern right-of-way of Browns Mill Road (100° R/K) with the centerline of Old Road Bed; thence running North 58 degrees 49 minutes 59 seconds West along the centerline of Old Road Bed a distance of 272.90 feet to a 1/2" rebar iron pin found at the intersection of the centerline of Old Road Bed with the common Land Lot and District Line of Land Lot 64 of the 15th District and Land Lot 12 of the 16th District of Dekalb County, Georgia: thence running North 00 degrees 53 minutes 19 seconds West along said common Land Lot and District Line a distance of 456.05 feet to a 1/2" rebar iron pin placed; thence running South 73 degrees 45 minutes 22 seconds West a distance of 140.70 feet to a 1/2" rebar iron pin placed; thence running North 25 degrees 26 minutes 43 seconds West along said right-of-way an arc distance of 255.0 feet (Cond = 234.6°) to a 1/2" repar iron pin placed; thence running Northeasterly along the centerline of Panthers Creek a distance of 270 feet more or less (Chord istance of 270.78° and having a bearing of North 58 degrees 40 minutes 32 seconds East) to a 1/2" renar iron pin placed on the common Land Lot and District line of Land Lot 64 of the 15th District and Land Lot 12 of the 16th District of Dekalb County, Georgia; thence running North 50 degrees 53 minutes 19 seconds West along said common Land Lot and District line a distance of 440.00 feet to a rock found at the Southeastern corner of Land Lot 65 of the 15th District of Dekalb County, Georgia; thence running North 00 degrees 32 minutes 18 seconds East a distance of 74.97 feet to a nil found in fence post; thence running South 01 degrees 29 minutes 11 seconds East a distance of 676.67 feet to a 1/2" rebar iron pin found; thence running South 01 degrees 30 minutes 11 seconds East a distance of 676.67 feet to a 1/2" rebar iron pin found; thence running North 86 degrees 44 minutes 45 seconds West a distance of 319.34 feet to a 1/2" rebar iron pin found; thence running North

TFHJ

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# Attachment 2: DeKalb County 2005 Rezoning Case File for CZ-05-32

#### **DEKALB COUNTY**

ITEM NO.		
TILMITIO.		

## BOARD OF COMMISSIONERS

#### **ZONING AGENDA / MINUTES**

MEETING DATE: June 14, 2005

ACTION TYPE ORDINANCE

SUBJECT: **Rezone** – City of Hope Ministries

**HEARING TYPE** 

**PUBLIC HEARING** 

COMMISSION DISTRICTS: 5 & 7

DEPARTMENT:	Planning	PUBLIC HEARING:	YES ✓ NO
ATTACHMENT:	✓ YES □ No	INFORMATION CONTACT:	Shari Strickland/John A. Bell
PAGES:	3	PHONE NUMBER:	(404) 371-2155

Deferred from 5/26/05 for decision only.

#### **PURPOSE:**

CZ-05-32

Application of City of Hope Ministries to rezone property located on the north side of Browns Mill Road, east of its intersection with Snapfinger Road from R-100 to R-A8. The property has frontage of 456 feet along Browns Mill Road and contains 23.55 acres. The application is conditioned on development of a senior living facility.

#### **Subject Property:**

16-012

#### **RECOMMENDATION(S):**

#### **PLANNIG DEPARTMENT:**

**APPROVAL.** The requested zoning amendment to the RA-8 District to allow senior family attached development for use as a senior living facility would be consistent with the low intensity use of the area. The zoning proposal would be in conformity with the policy and intent of the comprehensive plan. The proposed zoning amendment and development of the site for senior living would be compatible to the surrounding community which is comprised of single family residential use. Therefore, it is the recommendation of the Planning Department that the application be "Approved, subject to the following conditions:"

1. Use of the property shall be limited to single family attached dwellings for Senior Living only.

#### PLANNING COMMISSION:

Full cycle deferral.

#### **COMMUNITY COUNCIL:**

Approval.

## FOR USE BY COMMISSION OFFICE/CLERK ONLY

ACT	ION:	HII
AUI	ION.	$n_{11}$

MOTION was made by Commissioner Hank Johnson, seconded by Commissioner Stokes, and passed 5-0-0-2, to approve as conditioned by the Planning Department and further conditioned by the conditions set forth by a letter dated June 10, 2005, the rezoning application of City of Hope Ministries. Commissioners Boyer and Walldorff were absent and not voting.

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Vannon Carre				
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DEKALB COUNTY		EKALB COUNTY		
VETO STATEMENT ATTACHED:	<del></del>		······	
Commissioner Boyer left the meeting a	at 1:50 p.m.		•	
Commissioner Hank Johnson submitted Office.		for the record to b	e kept on file i	n the Clerk's
No one spoke for or against the application	on.			
	FOR	AGAINST	ABSTAIN	ABSENT
DISTRICT 1 - ELAINE BOYER				X
DISTRICT 2 - GALE WALLDORFF				x
DISTRICT 3 - LARRY JOHNSON	X_			
DISTRICT 4 – BURRELL ELLIS	X_			
DISTRICT 5 – HANK JOHNSON	X_			
DISTRICT 6 – KATHIE GANNON DISTRICT 7 – CONNIE STOVES	X_	<del></del>		



## THE DEKALB COUNTY PLANNING DEPARTMENT



The Honorable Vernon Jones Chief Executive Officer

Shari R. C. Strickland Acting Director

#### **ZONING ANALYSIS**

**AMENDED** 

Case No: CZ-05-32 Agenda #: N-14

Parcel-ID: 16-012-01-007

Applicant: City of Hope Ministries, Inc. Commission Districts: 5 and 7

Agent Authorized By: Seretha Creighton, Business Manager Signed By: Rev. Helen Branch, Pastor

Location: North side of Browns Mill Road, east of its intersection with Snapfinger Road.

SITE CHARACTERISTICS: Undeveloped lot with mature hardwood and pine vegetation.

Adjacent Land Use: Detached single family residences to the north, south, east and west

**Adjacent Zoning:** R-100

Compatibility of size and configuration with development standards (sketch attached if necessary):

The project site does meet the development standards for the zoning district proposed including, but not limited, to those relating to lot area, lot width, setback requirements and buffers (see attached analysis sheet).

Comprehensive Plan Recommendation: LDR Acreage: 23.55

Existing Zoning: R-100 Proposed Zoning: RA-8

Est. Max Net Density/Acre: 2.8 Est. Max Net Density/Acre: 8.0

Estimated Max. Units: 47 Estimated Max. Units: 188

#### CONDITIONS REQUESTED BY APPLICANT:

None. However, the project applicant is proposing to develop one-hundred and twelve (112) single family attached residences for senior living.

#### **ZONING HISTORY:**

The R-100 (Single Family Residential) zoning district on the project site dates to the adoption of the 1956 zoning ordinance.

#### **PLANNING DEPARTMENT RECOMMENDATION:**

<u>APPROVAL</u>. The requested zoning amendment to the RA-8 District to allow senior family attached development for use as a senior living facility would be consistent with the low intensity use of the area. The zoning proposal would be in conformity with the policy and intent of the comprehensive plan. The proposed zoning amendment and development of the site for senior living would be compatible to the surrounding community which is comprised of single family residential use. Therefore, it is the recommendation of the Planning Department that the application be "Approved, subject to the following conditions":

1. Use of the property shall be limited to single family attached dwellings for Senior Living only.

#### **SITE ANALYSIS:**

The project site is located on the north side of Browns Mill, east of its intersection with Snapfinger Road in unincorporated DeKalb County. The property has frontage of 456 feet along Browns Mill Road and contains 23.55 acres. The site is undeveloped and is contains dense growth of vegetation containing mature pine trees and hardwood vegetation. The topography is characterized by a sloping terrain which leads to a floodplain area and an interior creek bed. The character of the area consists of single family residential neighborhoods and a several institutional uses. Surrounding land uses consists of a single family residential development to the north and to the south; and institutional uses further to the southeast.

#### **PROJECT ANALYSIS:**

The project applicant is requesting an Amendment to Official Zoning Map pursuant to Section 27-821 of the DeKalb County Zoning Ordinance, to rezone the project site from the R-100 (Single Family Residential) District to the RA-8 (Single Family Residential) District to utilize the property for a senior living facility comprised of 112 single family attached housing units. The proposed RA-8 zoning district appears to be an appropriate zoning district for the intended use. It also appears that an attached housing development for senior living was would be compatible with the low intensity character of the surrounding area.

#### **ZONING ANALYSIS:**

Water and Sewer:

Traffic:

The submitted site plan depicts development of one-hundred and twelve (112) single family attached residential units that would be occupied for senior living. The proposed RA-8 zoning district appears to be an appropriate zoning district for the intended use. The minimum setback requirements in the RA-8 (Single Family Residential) District includes front yard setback along a public street of 5 feet; a side yard setback of 15 feet for attached dwellings and a rear yard of 30 feet. A transitional buffer area is required along properties that are zoned residential of 20 feet. Therefore, it appears the project site has ample size to meet the front and side yard setbacks, and buffer requirements of the proposed RA-8 zoning district. The project would also require a 75 foot stream buffer to minimize potential impacts on this sensitive stream corridor and floodplain habitat. The creek and dense growth of vegetation should act as an effective buffers from adjacent parcels allowing for a quality development for senior living.

#### LAND USE PLAN CONSISTENCY:

Students Generated by Existing Zoning: Students Generated by Proposed Zoning:

It should be noted that the Land Use Plan recommends an LDR category. The applicant has filed a companion application to amend the Comprehensive Land Use Plan to the LMR land use category (Case Number: LP-05-19).

#### **COUNTY DEPARTMENTS/ DIVISION COMMENTS OR RECOMMENDATIONS:**

#### **DEKALB COUNTY PUBLIC WORKS DEPARTMENT:**

Capacity: Latest Count: Hourly Capacity: Peak Hour Volume:			
Trips Generated:			
DEKALB COUNTY SCHOOLS	SYSTEM:		
Schools:	High	Middle	Elementary
V 601 1			
Name of School:			
Recommended capacity:			
Latest Enrollment:			

Section 27-832 of the Zoning Ordinance, "Standards and factors governing review of proposed amendment to official zoning map" states that the following standards and factors are found to be relevant to the exercise of the county's zoning powers and shall govern the review of all proposed amendments to the zoning maps:

#### A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:

The zoning proposal would be in conformity with the policy and intent of the comprehensive plan.

#### B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:

The zoning proposal would permit a use that is suitable in view of the uses and development of adjacent and nearby properties. The development of residential parcels immediately to the north, south, east and west indicate the character of compatible developments.

#### C. Whether the property to be affected by zoning proposal has a reasonable economics use as currently zoned:

Based on the submitted information, it does not appear that the property has a reasonable economics use as currently zoned.

#### D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:

Based on the submitted information it does not appear that the zoning proposal would adversely affect the existing use or usability of adjacent or nearby property, given the low intensity nature of the proposed development.

#### E. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:

See "C" above.

# F. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal:

There appears to be other existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval of the zoning proposal.

#### G. Whether the zoning proposal will adversely affect historic building, sites, districts, or archaeological resources:

Based on the submitted information it does not appear that the project proposal would adversely affect historic buildings, sites, or archaeological resources.

# <u>H. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.</u>

Based on the submitted information, it does not appear that the zoning proposal could result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

#### PLANNING DEPARTMENT RECOMMENDATION:

<u>APPROVAL</u> The requested zoning amendment to the RA-8 District to allow senior family attached development for use as a senior living facility would be consistent with the low intensity use of the area. The zoning proposal would be in conformity with the policy and intent of the comprehensive plan. The proposed zoning amendment and development of the site for senior living would be compatible to the surrounding community which is comprised of single family residential use. Therefore, it is the recommendation of the Planning Department that the application be "Approved, subject to the following conditions":

1. Use of the property shall be limited to single family attached dwellings for Senior Living only.



#### PLANNING & ZONING STAFF REPORT

**MEETING DATE: September 7, 2021** 

#### **GENERAL INFORMATION**

**Petition Number:** TMOD 21-007\*

**Applicant:** Stonecrest Planning and Zoning Department

**Project Location:** City-Wide

**Proposed amendment:** Amendment to the Stonecrest Code of Ordinances,

Chapter 7 – Building and Construction. Adoption of the

GMA model ordinance for Private Permitting Prequalification for review and inspection.

#### **FACTS AND ISSUES:**

Staff is recommending the adoption of the GMA model ordinance for Private Permitting Prequalification for review and inspection. This action is in response to the passage of the Private Permitting Review and Inspection Act during the 2019-2020 Regular Session of the Georgia General Assembly.

Adoption of this model ordinance would bring the City in compliance with the Georgia Private Permitting Review and Inspection Act and would formalize third party review and inspection of permits from a pre-qualified list of inspectors and reviewers, at the cost of the applicant. It would also provide relief from city review and inspection in times when such reviews are deemed to be taking too long.

**RECOMMENDED ACTION:** Recommend Approval to the City Council

#### **ATTACHMENTS:**

- 1. HB493, as signed by the Governor and made effective July 1, 2019
- 2. Model GMA Ordinance modified for Stonecrest
- \* Note this TMOD was renumbered from TMOD-21-010 as presented to City Council at their Special Called Work Session on August 13, 2021 to maintain sequential numbering with previously adopted text amendments.

Attachment 1: HB 493, as signed by the Governor and made effective July 1, 2019

House Bill 493 (AS PASSED HOUSE AND SENATE)

By: Representatives Tanner of the 9<sup>th</sup>, Harrell of the 106<sup>th</sup>, Stephens of the 164<sup>th</sup>, Powell of the 32<sup>nd</sup>, and Lumsden of the 12<sup>th</sup>

# A BILL TO BE ENTITLED AN ACT

- 1 To provide for professional engineers or other professionals to review certain plans related
- 2 to building and development if certain conditions are met so as to provide for a determination
- 3 in a timely manner; to amend Chapter 2 of Title 8 of the Official Code of Georgia Annotated,
- 4 relating to standards and requirements for construction, alteration, etc., of buildings and other
- 5 structures, so as to provide procedures for alternative plan review, permitting, and inspection
- 6 by private providers so as to simplify regulations on businesses at the local level; to provide
- 7 for definitions; to amend Chapter 7 of Title 12 of the Official Code of Georgia Annotated,
- 8 relating to control of soil erosion and sedimentation, so as to provide that counties and
- 9 municipalities can contract with qualified personnel to implement land disturbance activity
- ordinances; to provide for a short title; to provide for related matters; to repeal conflicting
- 11 laws; and for other purposes.

#### BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

- 14 This Act shall be known and may be cited as the "Private Permitting Review and Inspection
- 15 Act."

SECTION 2.

- 17 Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to standards and
- 18 requirements for construction, alteration, etc., of buildings and other structures, is amended
- 19 by revising subsection (g) of Code Section 8-2-26, relating to enforcement of codes
- 20 generally, employment and training of inspectors, and contracts for administration and
- 21 enforcement of codes, as follows:

22 "(g)(1) As used in this subsection, the term:

(A) 'Complete application' means a submitted plan, application, or request for inspection that contains all of the information and supporting documentation required by the county or municipality for it to make the determination as to whether the plan, application, or request is in compliance with regulatory requirements.

- (B) 'Private professional provider' means a professional engineer who holds a certificate of registration issued under Chapter 15 of Title 43 or a professional architect who holds a certificate of registration issued under Chapter 4 of Title 43, who is not an employee of or otherwise affiliated with or financially interested in the person, firm, or corporation engaged in the construction project to be reviewed or inspected.
- 32 (C) 'Regulatory fee' means payments, whether designated as permit fees, application 33 fees, or by another name, that are required by a local government as an exercise of its 34 police power, its regulation of business, and as a part of or as an aid to regulation of 35 construction related activities under this chapter.
  - (D) 'Regulatory requirements' means the requirements determined by a county or municipality to be necessary for approval of plans, permits, or applications under this chapter; provided, however, that with respect to any application, such requirements shall include the Georgia State Minimum Standard Codes most recently adopted by the Department of Community Affairs and any locally adopted ordinances and amendments to such codes; applicable zoning ordinances and conditions; design standards; and other state and local laws, regulations, and ordinances applicable to the application in question.
  - (2) Each county or municipality which imposes regulatory fees or regulatory requirements within its jurisdiction shall establish and make available a schedule of such regulatory fees and regulatory requirements which shall include a list of all documentation related to compliance with such regulatory requirements, including the requirements necessary for submittal of a complete application. The amount of any regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the local government and shall be subject to the provisions of paragraph (6) of Code Section 48-13-5.
    - (3) No later than five business days after receipt of any application related to regulatory requirements, a local building official of a county or municipality shall notify each applicant as to whether the submitted documents meet the requirements of a complete application. Except as otherwise provided in this paragraph, time spent by a county or municipality determining whether an application is complete shall count toward the total 30 days for plan review or inspection. If a local building official determines that the application is not complete, the applicant shall be provided written notice identifying the

59 items that are not complete. The 30 day time period is tolled when the application is rejected as incomplete. If within 30 days after the county or municipality has provided 60 61 notice that the application is incomplete the permit applicant submits revisions to address 62 the identified deficiencies, the local building official shall have an additional five 63 business days to review the application for completeness. 64 (4) Upon notification to the applicant that a complete application has been accepted, a 65 county or municipality shall also notify each applicant as to whether the personnel 66 employed or contracted by such county or municipality will be able to provide regulatory 67 action within 30 days for plan review or provide inspection services within two business 68 days of receiving a valid written request for inspection. 69 (5) If the county or municipality determines that the personnel employed or contracted 70 by such county or municipality cannot provide regulatory action or inspection services 71 within the time frames required under paragraph (4) of this subsection, the applicant shall 72 have the option of retaining, at its own expense, a private professional provider to provide 73 the required plan review or inspection in accordance with the provisions of this Code section. If the applicant elects to utilize the services of a private professional provider, 74 75 the regulatory fees associated with such regulatory action shall be reduced by 50 percent 76 and such reduced amount shall be paid to the county or municipality in accordance with 77 such jurisdiction's policies. 78 (6) If the county or municipality determines that the personnel employed or contracted 79 by such county or municipality can provide regulatory action or inspection services 80 within the time frames required under paragraph (4) of this subsection, a convenience fee 81 not to exceed the full amount of the regulatory fees associated with such regulatory action 82 shall be paid to the county or municipality in accordance with such jurisdiction's policies. 83 Upon payment in full of the convenience fees associated with the complete application, 84 the applicant may nevertheless choose to retain, at its own expense, a private professional provider to provide the required plan review or inspection, subject to the requirements set 85 forth in this Code section. 86 87 (7) If a governing authority of a county or municipality cannot provide review of the 88 documents intended to demonstrate that the structure to be built is in compliance with the 89 Georgia State Minimum Standard Codes most recently adopted by the Department of 90 Community Affairs and any locally adopted ordinances and amendments to such codes 91 within 30 business days of receiving a written application for permitting in accordance with the code official's plan submittal process or inspection services within two business 92 93 days of receiving a valid written request for inspection, then, in lieu of plan review or 94 inspection by personnel employed by such governing authority, any person, firm, or 95 corporation engaged in a construction project which requires plan review or inspection

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shall have the option of retaining, at its own expense, a private professional provider to provide the required plan review or inspection. As used in this subsection, the term 'private professional provider' means a professional engineer who holds a certificate of registration issued under Chapter 15 of Title 43 or a professional architect who holds a certificate of registration issued under Chapter 4 of Title 43, who is not an employee of or otherwise affiliated with or financially interested in the person, firm, or corporation engaged in the construction project to be reviewed or inspected. The local governing authority shall advise the permit applicant in writing if requested by the applicant at the time the complete submittal application for a permit in accordance with the code official's plan submittal process is received that the local governing authority intends to complete the required plan review within the time prescribed by this paragraph or that the applicant may immediately secure the services of a private professional provider to complete the required plan review pursuant to this subsection. The plan submittal process shall include those procedures and approvals required by the local jurisdiction before plan review can take place. If the local governing authority states its intent to complete the required plan review within the time prescribed by this paragraph, the applicant shall not be authorized to use the services of a private professional provider as provided in this subsection. The permit applicant and the local governing authority may agree by mutual consent to extend the time period prescribed by this paragraph for plan review if the characteristics of the project warrant such an extension. However, if If the local governing authority states its intent to complete the required plan review within the time prescribed by this paragraph (4) of this subsection, or any extension thereof mutually agreed to by the applicant and the governing authority, and does not permit the applicant to use the services of a private professional provider and the local governing authority fails to complete such plan review in the time prescribed by this paragraph (4) of this subsection, or any extension thereof mutually agreed to by the applicant and the governing authority, the local governing authority shall issue the applicant a project initiation permit. The local governing authority shall be allowed to limit the scope of a project initiation permit and limit the areas of the site to which the project initiation permit may apply but shall permit the applicant to begin work on the project, provided that portion of the initial phase of work is compliant with applicable codes, laws, and rules. If a full permit is not issued for the portion requested for permitting, then the governing authority shall have an additional 20 business days to complete the review and issue the full permit. If the plans submitted for permitting are denied for any deficiency, the time frames and process for resubmittal shall be governed by subparagraphs (C) through (E) of paragraph (7) (13) of this subsection. On or before July 1, 2007, the Board of Natural Resources shall adopt rules and regulations governing the review of erosion and sedimentation control plans under Part

133 9 of Chapter 7 of Title 12 to establish appropriate time frames for the submission and review of revised plan submittals where a deficiency or deficiencies in the submitted 134 plans have been identified by the governing authority. Any delay in the processing of an 135 136 application that is attributable to a cause outside the control of the county or municipality that is processing the application or through fault of the applicant shall not count toward 137 138 days for the purposes of this subsection. (2)(8) Any plan review or inspection conducted by a private professional provider shall 139 be no less extensive than plan reviews or inspections conducted by county or municipal 140 141 personnel. 142 (3)(9) The person, firm, or corporation retaining a private professional provider to conduct a plan review or an inspection shall be required to pay to the county or 143 144 municipality which requires the plan review or inspection the same regulatory fees and 145 charges which would have been required had the plan review or inspection been 146 conducted by a county or municipal inspector which are required by either paragraph (5) 147 or (6) of this subsection, as applicable. (4)(10) A private professional provider performing plan reviews under this subsection 148 shall review construction plans to determine compliance with the Georgia State Minimum 149 150 Standard Codes most recently adopted by the Department of Community Affairs and any 151 locally adopted ordinances and amendments to such codes all applicable regulatory requirements. Upon determining that the plans reviewed comply with the applicable 152 153 codes regulatory requirements, such private professional provider shall prepare an 154 affidavit or affidavits on a form adopted by the Department of Community Affairs 155 certifying under oath that the following is true and correct to the best of such private 156 professional provider's knowledge and belief and in accordance with the applicable 157 professional standard of care: 158 (A) The plans were reviewed by the affiant who is duly authorized to perform plan review pursuant to this subsection and who holds the appropriate license or 159 certifications and insurance coverage stipulated in this subsection; 160 (B) The plans comply with the Georgia State Minimum Standard Codes most recently 161 adopted by the Department of Community Affairs and any locally adopted ordinances 162 163 and amendments to such codes all applicable regulatory requirements; and (C) The plans submitted for plan review are in conformity with plans previously 164 submitted to obtain governmental approvals required in the plan submittal process and 165 do not make a change to the project reviewed for such approvals. 166 (5)(11) All private professional providers providing plan review or inspection services 167 pursuant to this subsection shall secure and maintain insurance coverage for professional 168 169 liability (errors and omissions) insurance. The limits of such insurance shall be not less

than \$1 million per claim and \$1 million in aggregate coverage for any project with a construction cost of \$5 million or less and \$2 million per claim and \$2 million in aggregate coverage for any project with a construction cost of more than \$5 million. Such insurance may be a practice policy or project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the certificate of final completion for the project. A local enforcement agency, local building official, or local government may establish, for private professional providers working within that jurisdiction, a system of registration listing the private professional providers within their stated areas of competency and verifying. The permit applicant shall verify compliance with the insurance requirements of this subsection paragraph.

(6)(12) The private professional provider shall be empowered to perform any plan review or inspection required by the governing authority of any county or municipality, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required to determine compliance with all regulatory requirements and for the issuance of a building permit or certificate of occupancy by the governing authority of any county or municipality, provided that the plan review or inspection is within the scope of such private professional provider's area of competency. Nothing in this Code section shall authorize any private professional provider to issue a certificate of occupancy. Only a local governing authority shall be authorized to issue a certificate of occupancy.

(7)(A)(13)(A) The permit applicant shall submit a copy of the private professional provider's plan review report to the county or municipality within five days of its completion. Such plan review report shall include at a minimum all of the following:

- (i) The affidavit of the private professional provider required pursuant to this subsection;
- (ii) The applicable fees; and

- (iii) Any documents required by the local official and any other documents necessary to determine that the permit applicant has secured all other governmental approvals required by law.
- (B) No more than 30 business days after receipt of both a permit application and the affidavit from the private professional provider required pursuant to this subsection, the local building official shall issue the requested permit or provide written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes regulatory requirements, as well as the specific code chapters and

sections of such regulatory requiremments. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 30 day period, the permit application shall be deemed approved as a matter of law and the permit shall be issued by the local building official on the next business day.

- (C) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 30 day period, the 30 day period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to this subsection or to submit revisions to correct the deficiencies.
- (D) If the permit applicant submits revisions to address the plan deficiencies previously identified, the local building official shall have the remainder of the tolled 30 day period plus an additional five business days to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes regulatory requirements, with specific reference to the relevant code chapters and sections of such regulatory requirements. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be issued by the local building official on the next business day. In the event that the revisions required to address the plan deficiencies or any additional revisions submitted by the applicant require that new governmental approvals be obtained, the applicant shall be required to obtain such approvals before a new plan report can be submitted.
- (E) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to this subsection or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official shall have an additional five business days to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes regulatory requirements, with specific reference to the relevant code chapters and sections.

(8)(14) Upon submission by the private professional provider of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the private professional provider without the necessity of further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the private professional provider, within two business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided

the private professional provider with a written description of the deficiencies and specific <del>code</del> regulatory requirements that have not been adequately addressed.

(9)(15) A local governing authority may provide for the prequalification of private professional providers who may perform plan reviews or inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published, and by any other methods such local authority ordinarily utilizes for notification of engineering, architecture, or construction related solicitations. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a private professional provider only on the basis of the private professional provider's expertise with respect to the objectives of this subsection, as demonstrated by the private professional provider's experience, education, and training. Such ordinance may require a private professional provider to hold additional certifications, provided that such certifications are required by ordinance for plan review personnel currently directly employed by such local governing authority.

(10)(16) Nothing in this subsection shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

(11)(17) This subsection shall not apply to hospitals, ambulatory health care centers, nursing homes, jails, penal institutions, airports, buildings or structures that impact national or state homeland security, or any building defined as a high-rise building in the State Minimum Standards Code; provided, however, that interior tenant build-out projects within high-rise buildings are not exempt from this subsection.

(12)(18) If the local building official determines that the building construction or plans do not comply with the applicable codes regulatory requirements, the official may deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate, or may issue a stop-work order for the project or any portion thereof as provided by law, after giving notice to the owner, the architect of record, the engineer of record, or the contractor of record and by posting a copy of the order on the site of the project and opportunity to remedy the violation within the time limits set forth in the notice, if the official determines noncompliance with state or local laws, codes, or ordinances regulatory requirements, provided that:

(A) The  $\underline{A}$  local building official shall be available to meet with the private professional provider within two business days to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying a permit or request for a certificate of occupancy or certificate of completion; and

(B) If the local building official and the private professional provider are unable to resolve the dispute or meet within the time required by this Code section, the matter shall be referred to the local enforcement agency's board of appeals, if one exists, which shall consider the matter not later than its next scheduled meeting. Any decisions by the local official, if there is no board of appeals, may be appealed to the Department of Community Affairs as provided in this chapter. The Department of Community Affairs shall develop rules and regulations which shall establish reasonable time frames and fees to carry out the provisions of this paragraph.

(13)(19) The local government, the <u>a</u> local building official, and local building code enforcement personnel and agents of the local government shall be immune from liability to any person or party for any action or inaction by an owner of a building or by a private professional provider or its duly authorized representative in connection with <del>building code</del> plan review and inspection services by private professional providers as provided in this subsection.

(14)(20) No local enforcement agency, local code official, or local government shall adopt or enforce any rules, procedures, policies, qualifications, or standards more stringent than those prescribed in this subsection. This subsection shall not preempt any local laws, rules, or procedures relating to the plan submittal process of local governing authorities.

(15)(21) Nothing in this subsection shall limit the authority of the a local code official to issue a stop-work order for a building project or any portion of such project, which may go into effect immediately as provided by law, after giving notice and opportunity to remedy the violation, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare. A stop work stop-work order issued for reasons of immediate threat to public safety and welfare shall be appealable to the local enforcement agency's board of appeals, if one exists, in the manner provided by applicable law. Any decisions by the local official, if there is no board of appeals, may be appealed to the Department of Community Affairs as provided in this chapter.

(16)(22) When performing building code plan reviews or inspection services, a private professional provider is subject to the disciplinary guidelines of the applicable professional licensing board with jurisdiction over such private professional provider's license or certification under Chapters 4 and 15 of Title 43, as applicable. Any complaint processing, investigation, and discipline that arise out of a private professional provider's performance of building code plan reviews or inspection services shall be conducted by the applicable professional licensing board. Notwithstanding any disciplinary rules of the applicable professional licensing board with jurisdiction over such private professional

provider's license or certification under Chapters 4 and 15 of Title 43, any local building official may decline to accept building code plan reviews or inspection services submitted by any private professional provider who has submitted multiple reports which required revisions due to negligence, noncompliance, or deficiencies.

(17)(23) Nothing in this subsection shall apply to inspections exempted in Code Section

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(24) To the extent that a provision of this Code section conflicts with requirements of federal laws or regulations or impairs a county's or municipality's receipt of federal funds,

such provision shall not apply."

326 SECTION 3.

Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to control of soil erosion and sedimentation, is amended by revising paragraph (1) of subsection (a) and subsection (c) of Code Section 12-7-8, relating to certification of locality as local issuing authority, periodic review, procedure for revoking certification, and enforcement actions, as follows:

"(a)(1) If a county or municipality has enacted ordinances which meet or exceed the standards, requirements, and provisions of this chapter and the state general permit, except that the standards, requirements, and provisions of the ordinances for monitoring, reporting, inspections, design standards, turbidity standards, education and training, and project size thresholds with regard to education and training requirements shall not exceed the state general permit requirements, and which are enforceable by such county or municipality, and if a county or municipality documents that it employs or contracts with qualified personnel to implement enacted ordinances, the director may shall certify such county or municipality as a local issuing authority for the purposes of this chapter." "(c) The board, on or before December 31, 2003, shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to subsection (a) of this Code section. Such review may include, but shall not be limited to, review of the administration and enforcement of and compliance with a governing authority's ordinances and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to subsection (a) of this Code section has not administered, enforced, or complied with its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to subsection (e) of Code Section 12-7-7, the division shall notify the governing authority of

the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority."

**SECTION 4.** 

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360 All laws and parts of laws in conflict with this Act are repealed.

# Attachment 2: Model GMA Ordinance modified for Stonecrest

This model private permitting ordinance for creating a prequalified list of plan review and inspection companies is provided only for general informational purposes and to assist Georgia cities in ensuring that quality of work is not compromised when third-parties are used. The ordinance is not and should not be treated as legal advice. This model ordinance has been developed in response to House Bill 493 from the 2019-2020 legislative session. This model also has numerous provisions which will need to be amended to fill in information in order for the ordinance to have any bearing. You should consult with your legal counsel before drafting or adopting any ordinance and before taking any action based on this model. (April 2020)



# Model Ordinance Private Permitting Prequalification ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF STONECREST, GEORGIA TO PROVIDE REQUIREMETS FOR PREQUALIFICATION OF PRIVATE PERMITTING REVIEW AND INSPECTION; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

Pursuant to O.C.G.A. §8-2-26(g) (hereinafter the "State Act"), the Procurement Department shall be authorized to prequalify any private professionals prior to them completing plan review and inspection services for permit applicants who have selected a third-party provider. Private professional providers must be certified professional engineers or certified professional architects who are not engaged in the project seeking the permit. Additional certifications can be required of prequalified private professionals if those same requirements are imposed on the municipal employees completing the plan review or inspection.

#### Section 1. Definitions

For purposes of this Third-party Inspection Ordinance, the following definitions shall apply unless the context clearly indicates otherwise:

- (a) Approved Third-party Inspectors and Plans Reviewer List. A list maintained by the Procurement Department comprised of the names of Approved Third-party Inspectors and Plans Reviewers that have complied with the application and renewal requirements of the City and have been approved to perform Third-party Inspections and Plans Review pursuant to this article.
- (b) Approved Third-party Inspector. A Registered Professional Engineer or Registered Professional Architect that has complied with the application and renewal requirements of Stonecrest, Georgia and has been approved to perform Third-party Inspections pursuant to this article. An Approved Third-party Inspector is intended to constitute a "private professional provider" for the purposes of performing inspections as described in the State Act.
- (c) Approved Third-party Plans Reviewer. A Registered Professional Engineer or Registered Professional Architect that has complied with the application and renewal requirements of Stonecrest, Georgia and has been approved to perform Third-party Plans Review pursuant to this article. An Approved Third-party Plans Reviewer is intended to constitute a "private professional provider" for the review of reviewing building construction plans as described in the State Act.
- (d) City. The City of Stonecrest, Georgia.
- (e) Complete Application. For purposes of processing applications in compliance with the State Act, an application submitted to the Procurement Department shall not be considered complete until all applicable fees have been paid, and all applicable reviewing agencies have received the application and provided any required approvals. For each permit type, Stonecrest, Georgia shall establish and publish the requirements of a complete application.
- (f) Convenience Fees. Fees established by Stonecrest, Georgia to be paid to the Procurement Department upon the election by an applicant to use a Third-party Inspector or Third-party Plans Reviewer or despite the Planning & Zoning Department otherwise being able to provide inspection and plan review services within the time frames required by the State Act. Such fees shall be the same a mount as any Regulatory Fees assessed by Stonecrest, Georgia for inspections and plan review services performed by the Planning & Zoning Department.
- (g) Department. Code Enforcement or such other department as may be assigned by the city manager the responsibility of performing inspections and overseeing the third-party inspection and plans review system described herein.
- (h) Inspection. The observance of work and the performance of test for certain components and elements to establish conformance with City approved construction documents, building codes and ordinances adopted by City, and the requirements of the state minimum standards as adopted and amended by the Georgia Department of Community Affairs.
- (i) Inspection Certification. A written statement signed by an Approved Third-party Inspector or his or her approved Technician, which shall indicate that the item(s) being inspected, in the Approved Third-party Inspector's professional opinion and

- to the best of their knowledge, complies with City approved construction documents, building codes and ordinances adopted by City, the requirements of the state minimum standards as adopted and amended by the Georgia Department of Community Affairs, and any other applicable inspections that are typically performed by Inspectors employed by City.
- (j) Inspection Field Report. A written report prepared by an Approved Third-party Inspector or a Technician working under the direct supervision of an Approved Third-party Inspector describing the work conducted and findings of an inspection performed by an Approved Third-party Inspector or a Technician working under the direct supervision of an Approved Third-party Inspector.
- (k) Plans Review Affidavit. A written affidavit on a form adopted by the Georgia Department of Community Affairs that is completed and signed under oath by an Approved Third-party Plans Reviewer, which shall indicate the plans which have been reviewed for the purpose of a building permit for the application in question, in the Approved Third-party Plans Reviewer's professional opinion and to the best of their knowledge, complies with the regulatory requirements as designated by City, including the Georgia State Minimum Standard Codes most recently adopted by the Department of Community Affairs and any locally adopted ordinances and amendments to such codes, applicable zoning ordinances and conditions, design standards, and any other applicable laws and regulations that would otherwise be required of staff employed by the City.
- (I) Registered Professional Architect. An individual that holds a certificate of registration issued under O.C.G.A. § 43-4-1 et seq.
- (m) Registered Professional Engineer. An individual that holds a certificate of registration issued under O.C.G.A. § 43-15-1 et seq.
- (n) Regulatory Fees. All fees established by the City to be paid to the City for any regulatory action, inspection services, or plan review services as provided by the State Act and this Article.
- (o) *Technician*. An individual who performs inspections under the direct supervision of an Approved Third-party Inspector.
- (p) Third-party Inspection and Plans Review Program. The rules and procedures described in this Third-party Inspection and Plans Review Ordinance.
- (q) *Third-party Plans Review*. Plans review performed in conformance with this program by Approved Third-party Plans Reviewers.
- (r) *Third-party Inspection.* Inspection performed in conformance with this program by Approved Third-party Inspectors.

# Section 2. Third-party Inspection and Plans Review Program

- (a) The Department will establish and maintain an Approved Third-party List from whom the Department will accept Third-party Inspections and Third-party Plans Reviews in accordance with this Third-party Inspection and Plans Review Ordinance.
- (b) In full compliance with the requirements of the State Act, City shall allow owners, developers, and contractors to submit Inspection Certifications by Approved Third-

- party Inspectors and Plans Review Affidavits by Approved Third-party Plans Reviewers in order to satisfy certain inspection and plans review requirements.
- (c) The Department will only consider Inspection Certifications and Plans Review Affidavits from parties listed on the Approved Third-party List. City makes no representation concerning the Approved Third-party Inspectors and Approved Third-party Plans Reviewers other than that they have submitted evidence showing that they have met the minimum criteria necessary to qualify for the Third-party Inspection and Plans Review Program described herein.
- (d) In order for an Inspection Certification or Plans Review Affidavit to be accepted by the Department for a particular project, an Approved Third-party Inspector or Approved Third-party Plans Reviewer must be independent of and must not be an employee of or otherwise affiliated with or financially interested in the person, firm or corporation engaged in the construction project to be reviewed or inspected.
- (e) The person, firm or corporation retaining an Approved Third-party Inspector or Approved Third-party Plans Reviewer to conduct an inspection or plans review shall be required to pay to City the same Regulatory Fees and charges which would have been required had the inspection or plans review been conducted by a City inspector or plans reviewer. Should the Department determine that it cannot conduct a particular inspection or plans review in a time as determined by the State Act, the applicable Regulatory Fees shall be reduced by fifty percent (50%). Should the Department determine that it can conduct a particular inspection or plans review in a time as determined by the State Act, a Convenience Fee shall be paid to the City. Upon payment in full of the Convenience Fees associated with the complete application, the applicant may nevertheless choose to retain, at its own expense, an Approved Third-party Inspector or Approved Third-party Plans Reviewer to provide the required inspection or plan review, subject to the requirements set forth in this Article. Any Fees or Convenience Fees paid to the City are nonrefundable.
- (f) All other fees and costs related to the performance of the Third-party Inspections or Third-party Plans Review are matters solely between the Approved Third-party Inspector or Approved Third-party Plans Reviewer and the person, firm, or corporation engaging the Approved Third-party Inspector or Approved Third-party Plans Reviewer.
- (g) Notwithstanding the submission of an Inspection Certification or Plans Review Affidavit, the Department retains the authority to make all code interpretations and to monitor the quality of all Third-party Inspections and Third-party Plans Reviews and nothing in this article shall be construed as authorizing any Approved Thirdparty Inspector or Approved Third-party Plans Reviewer to issue a Certificate of Occupancy.
- (h) The Department will follow all applicable procedures set forth in the State Act for all inspections and plans reviews. For purposes of processing applications in compliance with the State Act, an application submitted to the Department shall not be considered complete until all applicable fees have been paid, and all applicable reviewing agencies have received the application and provided any required approvals.

# Section 3. Inspections types

- (a) The Department will, at a minimum, accept Third-party Inspections in compliance with the State Act for any construction inspections required by the City Code of Ordinances. A comprehensive list of the various inspections types, their allowed timing and other related details are established by Department policy. This document is available from the Department and is published on the City website.
- (b) Approved Third-party Inspectors shall be authorized to conduct any inspection required by the City necessary or required to determine compliance with all regulatory requirements and for the issuance of a building permit or certificate of occupancy, provided that the inspection being performed is within the scope of the Approved Third-party Inspector's area of competency. However, nothing in this article shall be construed as authorizing Third-party Inspections for compliance with state or local fire safety standards or erosion control standards.

# Section 4. Approved Third-party Inspector requirements and qualifications

- (a) Individuals desiring to be placed on the Approved Third-party Inspectors and Plans Reviewer List as an Approved Third-party Inspector must submit an initial application along with an [application fee as established by City application fee is optional in the ordinance up to the municipality to determine] to the Department. Those individuals that are placed on the Approved Third-party Inspectors List must submit a renewal form every [year renewal period is at the discretion of the municipality] no later than (insert date) thereafter. Individuals that do not timely submit a renewal form shall be removed from the Approved Third-party Inspectors List.
- (b) In order to qualify as an Approved Third-party Inspector, an individual must:
  - (1) Be employed by or be a partner in an engineering or architect firm, in full compliance with City Code of Ordinances, including current occupational tax and registration required thereunder;
  - (2) Be a Registered Professional Engineer or a Registered Professional Architect as defined in this article;
  - (3) Otherwise be in good standing with all pertinent certification and professional accreditation boards:
  - (4) Possess and maintain minimum insurance as described herein; and
  - (5) Demonstrate relevant experience of at least one (1) year.
- (c) An individual shall not be qualified to be placed on the Approved Third-party List if he or she has had his or her authority to issue third-party Inspection Certifications in any other jurisdictions revoked. If an individual previously qualified to be on the Approved Third-party List and subsequently has his or her authority to issue thirdparty Inspection Certifications revoked, the individual shall automatically be removed from the Approved Third-party List.

- (d) An Approved Third-party Inspector may not submit an Inspection Certification if the Approved Third-party Inspector is an officer or employee of the owner, developer, contractor or other party or if the Approved Third-party Inspector is employed by or a partner in a firm that is affiliated with or financially interested in the owner, developer, contractor or other party on whose behalf the Inspection Certification is submitted.
- (e) Technicians may perform inspections under the supervision of an Approved Thirdparty Inspector provided that the technician has satisfied any specific requirements as may be designated by the City building official if those same requirements are imposed on the municipal employees completing the plan review or inspection.
- (f) Technicians performing inspections under the supervision of an Approved Thirdparty Inspector shall be a certified International Code Council (ICC) Inspector or equivalent if those same requirements are imposed on the municipal employees completing the plan review or inspection
- (g) Approved Third-party Inspectors shall obtain and maintain the following minimum insurance coverages and provisions, evidence of which shall be submitted to the Department with the initial application and each calendar year thereafter.
  - (1) All private professional providers providing inspection services pursuant to this subsection shall secure and maintain insurance coverage for professional liability (errors and omissions) insurance. The limits of such insurance shall be not less than \$1 million per claim and \$1 million in aggregate coverage for any project with a construction cost of \$5 million or less and \$2 million per claim and \$2 million in aggregate coverage for any project with a construction cost of more than \$5 million. Such insurance may be a practice policy or project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the certificate of final completion for the project. The permit applicant shall verify compliance with the insurance requirements of this paragraph. The cancellation provision shall provide for 30 days notice of cancellation.
  - (2) City, Georgia, its officers, officials, employees and representatives shall be named as additional insureds on the required insurance policies for all insurance coverages including but not limited to General Liability, Auto Liability, Employers Liability and Umbrella/Excess coverage, except that additional insured status shall not be required for Professional Liability and Workers Compensation coverages.
  - (3) The required insurance coverage shall be provided by an insurance company at all material times licensed to do business by, and in good standing with, the Georgia Department of Insurance.
  - (4) Approved Third-party Inspectors shall maintain the minimum insurance coverage as required above at all times during which they are listed as Approved Third-party Inspectors. Approved Third-party Inspectors shall provide the Department with evidence of minimum insurance coverages and provisions on an annual basis prior to the expiration of any policy or coverage and upon request by the Department. Should any insurance coverage or information change, the Approved Third-party Inspector shall provide written notice of any such change to the City within ten (10) business days. If at any

time an Approved Third-party Inspector fails to maintain the required insurance coverage, the Department may remove them from the Approved Third-party List.

- (h) Suspension of Technicians and Approved Third-party Inspectors: An individual who performs inspections under this article, whether a Technician or an individual Approved Third-party Inspector, shall be subject to suspension from the Approved Third-party List, and from submitting Inspection Field Reports and Inspection Certifications for the following infractions:
  - (1) Providing inspections without appropriate license or certification.
  - (2) Providing inspection services prior to issuance of a valid building permit.
  - (3) Failing to identify any noncompliance with any applicable code, as amended, (including, but not limited to) the International Building Code, International Mechanical Code, International Energy Conservation Code, and Life Safety Code, as determined in the sole good faith discretion of the Chief Building Official of the City. However, it is the express intent of the City not to impose sanctions on an individual under this Article for failing to identify multiple instances of noncompliance in one inspection such as that each such failure constitutes an individual and separate infraction. Rather, multiple failures contained in a single inspection under this paragraph shall be treated as a single infraction.
  - (4) Authorizing any deviation from the approved permit.
  - (5) Falsifying reports.
  - (6) Unauthorized employee performing inspections.
  - (7) Performing unauthorized types of inspections.
  - (8) Inspections passed with hold on project or under stop work order.
  - (9) Failure to identify noncompliance with any applicable code not captured in subsection (3) above, upon identification of such failure by the City on multiple occasions, as determined in the sole good faith discretion of the Chief Building Official of the City.
- (i) Suspension for submitting Inspection Field Reports and Inspection Certifications for infractions by a Technician or individual Approved Third-party Inspector shall be progressive based on the number of infractions in the previous 12-month period. For any combination of infractions within a 12-month period, the following actions and suspensions against a Technician or individual Approved Third-party Inspector shall be assessed:

First Infraction	Warning Letter
Second Infraction	30-Day suspension from eligibility to perform inspections and submit Inspection Field Reports and Inspection Certifications
Third Infraction	90-Day suspension from eligibility to perform inspections and submit Inspection Field Reports and Inspection Certifications

Fourth Infraction	1-Year suspension from eligibility to perform inspections and submit Inspection Field Reports and Inspection Certifications
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(j) An Approved Third-party Inspector shall be subject to progressive action based on the number of infractions in the previous 24-month period by individuals performing inspections, including the individual Approved Third-party Inspector or any one or more Technicians acting under the supervision of the Approved Third-party Inspector (which shall include Technicians serving as employees, independent contractors, agents, etc.). Violations under this paragraph shall accrue upon every third infraction by an individual contemplated in paragraph (h) above, and shall subject Approved Third-Party Inspectors to the following actions and suspensions for any combination of infractions within a 24-month period:

First Violation (upon third individual infraction)	Written Letter of Reprimand
Second Violation (upon sixth individual infraction)	30-Day suspension from Approved Third- Party Inspector and Plans Reviewer List
Third Violation (upon ninth individual Infraction)	90-Day suspension from Approved Third- Party Inspector and Plans Reviewer List
Fourth Violation (upon twelfth individual infraction)	1-Year suspension from Approved Third- Party Inspector and Plans Reviewer List

The City shall send written notice to the Approved Third-party Inspector for each infraction as contemplated in paragraph (i) above, the purpose of which shall be to inform the Approved Third-party Inspector of the number of infractions accruing under paragraph (i), to put the Approved Third-party Inspector on notice of possible violations under this paragraph (j), and so the Approved Third-party Inspector has the opportunity to take any remedial action necessary to prevent future infractions and/or violations.

- (k) Notwithstanding any other provision of this Article, in the event a Technician or individual Approved Third-party Inspector is found to have falsified a report or where life safety issues were not identified, the progressive actions and suspensions of this Article may, in the discretion of the City, be bypassed with an immediate suspension and/or disqualification imposed.
- (I) Appeal of suspensions and/or disqualifications shall be processed through the (insert appropriate board, commission or governing body as determined by the municipality).

# Section 5. Procedures for conducting Third-Party Inspections

- (a) An Approved Third-party Inspector shall not suggest, direct, or authorize any deviation from approved construction documents without first obtaining approval from the Department.
- (b) The following procedures shall apply to all Third-party Inspections:
  - (1) The most recent process and procedure as established by the Procurement Department.
- (c) The Department shall have a right of entry to any premises inspected by an Approved Third-party Inspector or Technician to ensure compliance with this Article and the State Act.

# Section 6. Approved Third-party Plans Reviewer requirements and qualifications

- (a) Individuals wishing to be placed on the Approved Third-party List as an Approved Plans Reviewer must submit an initial application along with an [application fee if an application fee is required by municipality] as established by the City to the Department.
- (b) In order to qualify as an Approved Third-party Plans Reviewer, an individual must:
  - (1) Be, or be a partner in or employed by, an engineering or architect firm, in full compliance with City, Georgia Code of Ordinances, including current occupational tax and registration required thereunder;
  - (2) Be a Registered Professional Engineer or Registered Professional Architect as defined in this article;
  - (3) Otherwise be in good standing with all pertinent certification and professional accreditation boards;
  - (4) Possess and maintain minimum insurance as described herein; and
  - (5) Demonstrate relevant experience of at least one (1) year.
- (c) An individual shall not be qualified to be placed on the Approved Third-party List if he or she has had his or her authority to issue third-party Plans Review Affidavits in any other jurisdictions revoked. If an individual previously qualified to be on the Approved Third-party List and subsequently has his or her authority to issue third-party Plans Review Affidavits revoked, the individual shall be removed from the Approved Third-party Inspectors and Plans Reviewer List.
- (d) An Approved Third-party Plans Reviewer may not submit a Plans Review Affidavit if the Approved Third-party Plans Reviewer is an officer or employee of the owner, developer, contractor or other party or if the Approved Third-party Plans Reviewer is employed by or a partner in a firm that is affiliated with or financially interested in the owner, developer, contractor or other party on whose behalf the Plans Review Affidavit is submitted.
- (e) All private professional providers providing plan review services pursuant to this subsection shall secure and maintain insurance coverage for professional liability (errors and omissions) insurance. The limits of such insurance shall be not less than \$1 million per claim and \$1 million in aggregate coverage for any project with a construction cost of \$5 million or less and \$2 million per claim and \$2 million in aggregate coverage for any project with a construction cost of more than \$5 million.

Such insurance may be a practice policy or project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the certificate of final completion for the project. The permit applicant shall verify compliance with the insurance requirements of this paragraph. The cancellation provision shall provide for 30 days notice of cancellation.

- (f) City, Georgia, its officers, officials, employees and representatives shall be named as additional insureds on the required insurance policies for all insurance coverages including but not limited to General Liability, Auto Liability, Employers Liability and Umbrella/Excess coverage, except that additional insured status shall not be required for Professional Liability and Workers Compensation coverages.
- (g) The required insurance coverage shall be provided by an insurance company at all material times licensed to do business by, and in good standing with, the Georgia Department of Insurance.
- (h) Approved Third-party Plan Reviewers shall maintain the minimum insurance coverage as required above at all times during which they are listed as Approved Third-party Plan Reviewers. Approved Third-party Plan Reviewers shall provide the Department with evidence of minimum insurance coverages and provisions on an annual basis prior to the expiration of any policy or coverage and upon request by the Department. Should any insurance coverage or information change, the Approved Third-party Plan Reviewer shall provide written notice of any such change to the City within ten (10) business days. If at any time an Approved Third-party Plan Reviewer fails to maintain the required insurance coverage, the Department may remove them from the Approved Third-party List.
- (i) Suspension of Approved Third-party Plans Reviewers:

An individual who performs plans review under this article shall be subject to suspension from the Approved Third-party List, and from submitting Plans Review Affidavits for the following infractions:

- (1) Providing plans reviews without appropriate license or certification.
- (2) Failing to identify any noncompliance with any applicable code, as amended, (including, but not limited to), the International Building Code, International Mechanical Code, International Energy Conservation Code, and Life Safety Code as determined in the sole good faith discretion of the Chief Building Official of the City. However, it is the express intent of the City not to impose sanctions on an individual under this Article for failing to identify multiple instances of noncompliance in one inspection such as that each such failure constitutes an individual and separate infraction. Rather, multiple failures contained in a single inspection under this paragraph shall be treated as a single infraction.
- (3) Falsifying Plans Review.
- (4) Performing unauthorized types of plan reviews.

(j) Suspension for submitting Plans Review Affidavits for infractions by an Approved Third-party Plans Reviewer shall be progressive based on the number of infractions in the previous 12-month period. For any combination of infractions within a 12-month period, the following actions and suspensions against an Approved Third-party Plans Reviewer shall be assessed:

First Infraction	Written Letter of Reprimand	
Second	30-Day suspension from Approved Third-Party	
Infraction	Inspector and Plans Reviewer List	
Third	90-Day suspension from Approved Third-Party	
Infraction	Inspector and Plans Reviewer List	
Fourth	1-Year suspension from Approved Third-Party	
Infraction	Inspector and Plans Reviewer List	

The City shall send written notice to the Approved Third-party Plans Reviewer for each infraction as contemplated in paragraph (j) above, the purpose of which shall be to inform the Approved Third-party Plans Reviewer of the number of infractions accruing under paragraph (j) and so the Approved Third-party Plans Reviewer has the opportunity to take any corrective action necessary to prevent future infractions.

- (k) Notwithstanding any other provision of this Article, in the event an Approved Thirdparty Plans Reviewer is found to have falsified Plans Review Affidavits or where life safety issues were not identified, progressive actions and suspensions of this Article may, in the discretion of the City, be bypassed with an immediate suspension and/or disqualification imposed.
- (I) Appeal of suspensions and/or disqualifications shall be processed through the <u>(insert appropriate board, commission or governing body as determined by the municipality)</u>.

## Section 7. Procedures for conducting Third-party Plan Reviews

- (a) Any plan review conducted by an Approved Third-party Plans Reviewer shall be no less extensive than plan reviews conducted by City personnel.
- (b) The following procedures shall apply to all Third-party Plans Review:
  - (1) The most recent process and procedure as established by the Procurement Department.

### Section 8. Appeals

- (a) If the local building official and the private professional provider are unable to resolve a dispute or meet within the time required by the State Act, the matter shall be referred to the board of appeals.
- (b) The board of appeals shall be a quasi-judicial board of the city and shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the city manager in the enforcement of the State Act.
- (c) Membership/residency. The board of appeals shall consist of three regular members, and two alternate members, appointed by the mayor. The members shall serve for overlapping terms of three years. The chair shall be elected by the board from its membership. The board shall adopt rules in accordance with the provisions of this ordinance for the conduct of its affairs. Members shall have been continuous residents, property owners or business owners within the city for not less than six months prior to appointment. Members shall have either professional or academic credentials and experience that will serve to assist them in their duties as a member of the board of appeals.
- (d) Appeals, hearings, and notice. All questions arising in connection with the interpretation and enforcement of this Code shall first be presented to the city manager, and that such questions shall be presented to the board of appeals only on appeal from the decision of the city manager, and that from the decision of the board of appeals, recourse shall be as provided by state law. The city manager shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- (e) Appeals to these regulations may be taken to the board of appeals by the local building official, the private professional provider, or the owner of the subject building.
- (f) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals, after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application, on notices to the officer from whom the appeal is taken, and on due cause shown.
- (g) The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, or by agent, or by attorney.
- (h) Nothing in this subsection shall limit the authority of the a local code official to issue a stop-work order for a building project or any portion of such project, which may go into effect immediately as provided by law, after giving notice and opportunity to remedy the violation, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

### **SECTION 9**

Except as provided otherwise herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

# **SECTION 10**

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

### **SECTION 11**

This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of Stonecrest, Georgia.

SO ORDAINED this	day of	, 20
		CITY OF STONECREST, GEORGIA
		Ву:
		Mayor
ATTEST.		



## PLANNING & ZONING STAFF REPORT

**MEETING DATE: September 7, 2021** 

# **GENERAL INFORMATION**

**Petition Number:** TMOD 21-008\*

**Applicant:** Stonecrest Planning and Zoning Department

**Project Location:** City-Wide

Proposed amendment: Amendments to Stonecrest Zoning Ordinance, Chapter

27Article 7 – Administration regarding application procedures, training requirements for commission and board members, and public notification of the rezoning

and building activity.

# **FACTS AND ISSUES:**

The draft Zoning Ordinance presented to the City Council in March 2020 and prepared by The Collaborative Firm, included amendments to application procedures and two new provisions related to public notification. These amendments were later presented to the City Council with some modifications on August 13, 2021 at their Special Called Work Session, and some minor modifications were made based on feedback.

**RECOMMENDED ACTION:** Recommend Approval to the City Council

# **ATTACHMENTS:**

1. Proposed Changes to Article 7 - Administration

\* Note – this TMOD was renumbered from TMOD-21-011 as presented to City Council at their Special Called Work Session on August 13, 2021 to maintain sequential numbering with previously adopted text amendments.

# **Attachment 1: Proposed Changes to Article 7 – Administration**

**ARTICLE 7. - ADMINISTRATION** 

# Sec. 7.1.2. – Governing Bodies

#### B. Training and Education of Boards and Commissions

- 1. Members of the Planning Commission and Zoning Board of Appeals shall attend by the 365th day of their term of appointment or re-appointment one (1) or more courses, seminars, or other opportunities of training and education on matters pertaining to the operations, activities, or duties of their respective board or commission (Sec 2.6.17.b).
- 2. Education and training opportunities include, but are not limited to, any organized training or educational activities that in the opinion of the Planning and Zoning Director are relevant to the activities, operations, and duties of said board or commission. (Sec. 2.6.17.e)

# Sec. 7.2.2. - Applications.

- B. *Processing of said applications*. The processing of said applications shall be based upon an annual calendar adopted by the city council. This calendar shall be made available to the public in the offices of the planning department.
  - 1. The director of planning shall be authorized to establish application submittal requirements necessary to obtain sufficient information to allow for a compliance review of the application as well as forms and instructions for each application type or petition.
  - 2. No application shall be processed by the planning and zoning director unless it complies with the procedural requirements of this division and is found to be a complete application.

#### Sec. 7.2.4. - Public hearings.

- C. Zoning decisions, appeals to the zoning board of appeals, variances, extensions of special land use permits, and major modifications of conditions initiated by a party other than the city. For any zoning decision, appeal to the zoning board of appeals, variance, extension of special land use permits, or major modification of conditions initiated by a party other than the city, notice of the public hearing shall be provided as follows:
  - Written notice of each public hearing shall state the nature of the proposed change, and the date, time, and place of the public hearing before either the planning commission, zoning board of appeals or the city council and shall be mailed by first class mail by the director of planning to all owners of property within one thousand (1000) of the boundaries adjoining the subject property, as such property owners are listed on the records of DeKalb tax commissioner, at least 15 days and not more than 45 days prior to said public hearing.

### Sec. 7.2.5 Community Impact Notification

# A. Applicability

- Any development or building project with an aggregate of 12,000 square feet or more of new buildings or a site consisting of two acres or more must meet the Community Impact Notification requirements.
- 2. This includes any development or building project with an aggregate of 12,000 square feet of construction, or other similar work requiring a building permit within the next 24 months.

#### B. Requirements

- Council notification. The Chief Building Official shall provide notification to the pertinent district councilmember.
- 2. Posted notice. Applicant shall place one or more signs in a conspicuous location on the property. At least one sign shall be posted along each street on which the subject property has frontage. One additional sign shall be posted for each additional 500 feet of frontage. Each sign shall contain the location and nature of the proposed project and web address to access and view plans.
- 3. Written notice. Written notice shall be mailed by first class mail by the Applicant to all owners of property within 1,000 feet of the boundaries of the subject property. The notice shall state the location and nature of the proposed project.